*Reality TV programs face insurance challenges / 3*

*Charley losses estimated at up to $7.4 billion / 3*

www.businessinsurance.com

Business Insurance®

August 30, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

$5

# Risk plans in place for RNC

By DAVE LENCKUS and RUPAL PAREKH

**NEW YORK**—While city officials in New York plan to spend tens of millions of dollars safeguarding delegates to the Republican National Convention this week, risk managers at organizations in Manhattan have not drastically modified their security plans because of the convention.

Risk managers only have had to tweak the disaster plans that their organizations either devised or overhauled after the terrorist attacks on Sept. 11, 2001, risk management consultants and brokers say.

Some small businesses near Madison Square Garden, the main convention venue, plan to close during the convention because of business traffic problems they expect convention security measures will create. But larger organizations plan to remain open and operational by shuffling personnel and some operations to other sites not in close proximity to convention activities.

See **RNC**/page 18

PHOTO: EPA/JIM HOLLANDER

New York City has spent millions to provide security for the Republican National Convention.

## Late News

### ADEA awards upheld for unintended bias

A company that laid off 31 people, 30 of whom were over 40, could have met its goals without having a discriminatory impact on workers protected by the Age Discrimination in Employment Act, a panel of the 2nd U.S. Circuit Court of Appeals ruled. In *Meacham vs. Knolls Atomic Power Laboratory*, the court upheld a July 2000 jury verdict that found the bias unintentional but gave awards ranging from about $69,000 to more than $1.1 million to 17 former employees of Knolls Atomic Power Laboratory, a unit of Bethesda, Md.-based Lockheed Martin Corp. The court concluded KAPL could have applied safeguards against subjectivity in its involuntary workforce reduction.

### California court OKs overtime class action

California's Supreme Court handed employers a defeat Thursday by unanimously ruling that store managers for Sav-on Drug Stores Inc. can proceed with a class action over unpaid overtime compensation. Because of a growing number of similar suits, the case drew amicus briefs from various employer and labor groups.

Plaintiffs claim Sav-on improperly classified store operating managers and assistant managers as exempt employees. Sav-on, a unit of Boise, Idaho-based Albertsons Inc., argued against class status, saying each manager's work activities and conditions differed substantially. The state high court, reversing an appeals court decision, concluded that class-action status was necessary to prevent strain on the judicial system and litigants.

See **LATE NEWS**/page 19

# Congress takes closer look at overhauling insurance regs

By MEG FLETCHER

**WASHINGTON**—The most comprehensive proposal to modernize insurance regulation in nearly 60 years is garnering kudos as well as questions from policyholders, regulators and many segments of the insurance industry.

In preliminary comments, observers are generally enthusiastic that proposals to make the state-based system of insurance regulation more uniform and efficient are gaining wider discussion in Congress.

A discussion draft of the State Modernization and Regulatory Transparency (SMART) Act was released earlier this month by Rep. Richard Baker, R-La., chairman of the House

See **REGULATION**/page 18

## Low-cost basic care draws employer interest

# Retail clinics promise savings, convenience

By JOANNE WOJCIK

Attention, health care shoppers.

An innovative, low-cost approach to providing medical services—health care kiosks operating in retail and grocery stores—has drawn the interest of cost-conscious employers, insurers and consumers in isolated pockets around the country, and an expansion of the approach is under way.

Staffed with nurse practitioners who provide a limited menu of medical services, the kiosks are less expensive—and more convenient—than traditional visits to physician offices or urgent-care facilities.

They also pose competition for those traditional medical facilities, which proponents hope will foster the growth of health care consumerism.

Founded in 2000 by a physician and a pair of investors tired of long waits at emergency rooms with their children, Minneapolis-based MinuteClinic ventured outside of the state of Minnesota for the first time earlier this month, opening a kiosk in a Towson, Md., store operated by Minneapolis-based retailer Target Corp.

MinuteClinic also has 14 locations in Minnesota and has contracted directly with two of the state's major employers—Minneapolis-based electronics retailer Best Buy Corp. and Indianapolis-based medical products maker Guidant Corp.—to provide medical services on their corporate campuses.

A similar venture, Louisville, Ky.-based FastCare, opened kiosks in two grocery stores operated by Cincinnati-based The Kroger Co. in Kentucky about a year ago.

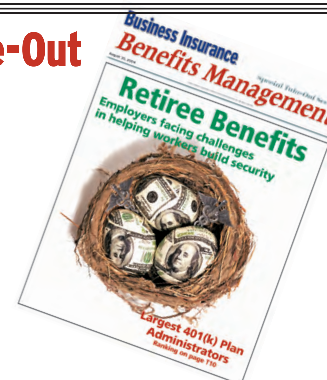
Both companies' mini medical offices are designed to treat a limited set of common ailments such as ear, bladder and sinus infections; strep throat; and flu and colds. Many of the kiosks, which generally are open during store hours, also provide immunizations.

Prices for services—usually posted on the wall at the kiosks—start at $38 at FastCare and $44 at

See **CLINICS**/page 16

## Benefits Management Take-Out

**RETIREE BENEFITS**




**LARGEST 401(k) PLAN ADMINISTRATORS**

*Ranking on page T10*

NEWSPAPER

BI 08-30-04 A 3 8/27/04 3:21 PM Page 1



Marsh documents patterns in terrorism coverage buying

# Companies with large risks most likely to buy terror cover

By DOUGLAS McLEOD

The number of companies buying terrorism insurance rose slightly in the second quarter of 2004 as rates for the coverage stabilized, though buying patterns differed markedly by size of company, industry and region of the country, according to a Marsh Inc. survey.

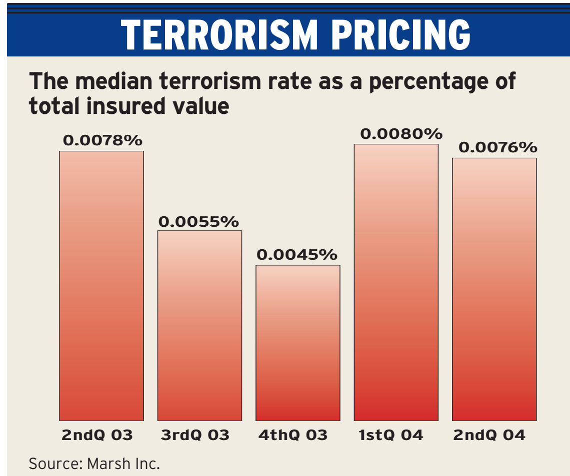
Overall, 46.2% of 807 surveyed companies bought terrorism coverage while renewing property programs in the second quarter, up marginally from 44.2% in the first quarter but nearly double the 23.5% that bought the coverage in the second quarter of 2003, Marsh found.

Companies with total insured property values between $500 million and $1 billion were the most-frequent buyers, with 67.9% opting for terrorism coverage in the second quarter, up from 45.8% in the first quarter.

See TERRORISM/page 19

**TERRORISM PRICING**

The median terrorism rate as a percentage of total insured value




Source: Marsh Inc.

Commercial claims are expected to make up 40% of the total insured losses from Hurricane Charley, which severely damaged these tanks containing orange juice mix.

# Charley loss ranks as second-worst hurricane ever

## Up to $7.4 billion in losses seen

By MICHAEL BRADFORD

Property owners and insurers are getting a clearer picture of their losses as the cleanup continues from Hurricane Charley.

The Insurance Information Institute projects insured losses from the storm, which was responsible for at least 25 deaths in Florida, at $7.40 billion and the Property Claims Services unit of Insurance Services Offices Inc. estimates $6.80 billion.

At those levels, Charley would be the second-most costly hurricane in U.S. history, after Hurricane Andrew's $15.50 billion in insured losses in 1992, and ahead of 1999's Hurricane Hugo, which produced insured losses of $4.20 billion, according to the Insurance Information Institute.

Commercial claims are expected to make up 40% of total insured losses, according to Property Claims Services.

Business interruption losses, though, are not expected to be a significant portion of the total commercial loss, although they will be high for some companies, said John Dempsey, a partner with Dempsey, Myers & Co. L.L.P., a Wilton, Conn.-based forensic accounting firm.

"The feedback that I'm getting from the larger brokers is that the losses are not that significant and may fall within the deductibles" for many companies with coverage for business interruptions, Mr. Dempsey said.

Some retailers will suffer from loss of revenue, as will some

See CHARLEY/page 16

# Coverage for reality TV shows difficult to place, expensive

By RUPAL PAREKH

While television audiences can't seem to get enough of reality TV, some underwriters have seen enough.

Networks soon will unveil a host of new reality shows for the fall season, including ABC's "The Benefactor," in which a billionaire businessman will give away part of his fortune, and NBC's "The Contender," which will follow 16 boxers as they train together and slug it out for a chance at $1 million. Fox Broadcasting Co. this fall will debut three new reality TV show—including "Renovate My Family," in which entire families receive makeovers.

As the networks develop ever-more outrageous ideas, the popular shows have been a dose of reality for insurers, which are raising prices and, in some cases, avoiding the risks entirely.

Broken bones and other run-of-the-mill injuries have dropped to the bottom of underwriters' list of concerns, as reality TV-related claims rack up for character defamation, emotional distress and legal fees, pressuring the already small pool of insurers underwriting reality TV to become even more selective, sources say.

See REALITY TV/page 6

PHOTO: REUTERS

Jeffrey Katzenberg, Sylvester Stallone and Sugar Ray Leonard (from left) listen during a press conference about their new reality show, 'The Contender,' which will debut in the fall on NBC.

# Inside Business Insurance

### Managed care rate hikes expected to ease

Healthy profits in the first half of 2004 are expected to ease pressure on employer premiums. Page 4

### EEOC slow to finalize rule on retiree benefit bias

Employers seeking relief from a potential age discrimination exposure in retiree benefit plans are still waiting for the agency to act. Page 4

### I won't be at work today, the dog ate my keycard

Life is full of excuses and so, too, apparently, is the workplace, writes Paul Winston. Page 6

### At ERISA milestone, pension issues remain

ERISA has done much to guarantee pension benefits, but more is needed to preserve the pension system, one of this week's editorials says. Page 8

### Terrorism investigated in crash of Russian jets

The nearly simultaneous explosions of two Russian passenger jets last week is being investigated as an act of terrorism. Page 13

## Online

• Learn about upcoming industry events and add info about your own meeting to the online Datebook calendar.

• Updated directory of 401(k) plan administrators is one of nearly 30 searchable listings of industry vendors.

• New Opinion Poll for readers: Is a taxpayer bailout of the Pension Benefit Guaranty Corp. inevitable?

## Departments

Advertiser Index ....18
Business Resources ....12
Comings & Goings ....12
Commentary ....12
International ....13
Opinions ....8
Perspectives ....10
Professional MarketPlace ....14
Ticker ....19
Paul Winston ....6
World Updates ....13

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 38, No. 35, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. $5 a copy and $97 a year in the U.S. $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2004 by Crain Communications Inc.

BI 08-30-04 A 4 8/27/04 3:21 PM Page 1



## Managed care costs beginning to moderate

# Healthy profits expected to slow rate increases

By GLORIA GONZALEZ

Employer health care premium increases are expected to moderate through 2004 as medical cost trends ease and employers institute benefit cutbacks to rein in their health care costs.

Most of the major managed care companies posted gains in first-half net income compared with the prior-year period (see chart). Analysts attributed the strong earnings to a combination of factors, including a continued slowdown in the growth of medical costs and continued pricing discipline.

"The story line for the first half is earnings continue to be strong and the outlook continues to be good for the managed care segment," said John Ward, chairman of the Cincinnati-based Ward Group. "I think the dynamics continue pretty much as they have been in recent quarters."

Analysts expect rate increases generally will be in the range of 9% to 10.5%—down from 10% to 13% in previous years.

In fact, according to a survey of more than 900 employers by Mercer Human Resource Consulting,

See MANAGED CARE/page 14

**Managed Care**

**First-half 2004 results**

**MANAGED CARE COMPANIES' FIRST-HALF RESULTS**

Ranked by net income. Dollar figures in millions.

| Company | Net income 2004 | Percentage increase (decrease) | Revenues 2004 | Percentage increase (decrease) |
|---|---|---|---|---|
| UnitedHealth Group Inc. * | $1,150.0 | 36.6% | $16,840.0 | 15.3% |
| Kaiser Permanente | 832.0 | 27.0 | 13,900.0 | 10.0 |
| Aetna Inc. | 652.1 | 28.2 | 9,700.0 | 7.9 |
| WellPoint Health Networks Inc. | 595.2 | 29.8 | 11,400.0 | 14.4 |
| CIGNA Corp. ** | 593.0 | NM | 9,360.0 | (1.9) |
| Anthem Inc. | 533.5 | 45.0 | 9,200.0 | 12.0 |
| Coventry Health Care Inc. | 158.3 | 40.0 | 2,600.0 | 20.2 |
| Humana Inc. | 148.6 | 48.0 | 6,700.0 | 13.0 |
| PacifiCare Health Systems Inc. | 143.0 | (0.5) | 6,000.0 | 9.0 |
| WellChoice Inc. | 124.7 | 29.2 | 2,890.0 | 8.2 |
| Health Net Inc. | 56.4 | (61.6) | 5,800.0 | 6.4 |

* Excludes net income and revenues for Oxford Health Plans Inc., which merged with UnitedHealth July 29. ** Net income comparison not meaningful because CIGNA posted a net loss of $53 million in first-half 2003.
Source: Company reports

# Insurers post strong results even as rates begin to soften

By JUDY GREENWALD

As insurance buyers continue to see rate increases moderate, observers say the inevitable soft phase of the insurance cycle is approaching, but they are not sure when.

"How long does it take—and how fast—are clearly the key issues that we are following," said Jeffrey Berg, a senior analyst with rating agency Moody's Investors Service in New York.

Meanwhile, insurers are still posting strong returns, reflecting the hard rates of the past several years.

The 13 insurers that reported net income in *Business Insurance*'s survey posted a 61% increase in net income, to $9.83 billion (see chart, page 15).

Other first-half results from the *BI* survey of 14 property/casualty insurers include:

- The insurers reported a 96.3% combined ratio, compared with 97.6% for the same period a year ago.
- Net premiums written grew 16.6%, to $64.37 billion.
- Policyholder surplus increased 24.5%, to $62.52 billion.

"Underlying underwriting results were clearly very strong," said Brian Meredith, senior P/C insurance analyst with Banc of America Securities in New York. "You're seeing the impact of several years of price increases, as well as relatively modest loss-cost inflation. You also had relatively low catastrophe losses for the first half of the year."

**Property/Casualty**

**First-half 2004 results**

Cliff Gallant, an analyst with Keefe, Bruyette & Woods in New York, said returns on equity have been very good, "in part because of the luck of good weather but also we're starting to see the clear impact" of improved pricing and terms and conditions reflected in the numbers. "And, finally," he said, "there were less reserve adjustments than we've seen in the last couple of years as well."

"It's been an excellent year so far," said John Ward, chairman of the Cincinnati-based Ward Group. "The very strong platform foundation built in 2003 continues into '04. The results, particularly in commercial lines, for most companies are excellent," with the notable exception of the $1.63 billion reserve addition by St. Paul, Minn.-based St. Paul Travelers Cos. Inc. The company said the reserve boost largely reflects the process of conforming the St. Paul Cos. Inc.'s accounting and actuarial methods to those of the Travelers Property Casualty Corp. "But other than that one exception, results have been excellent, and for some companies, record breaking, and the good

See RESULTS/page 15

## States enact rules to aid victims

# Employer response important in dealing with domestic abuse

By MEG SHREVE

Once regarded as an issue that remained in the home, domestic abuse has become a focal point of state legislatures and companies. Employers are increasingly concerned about the threat an abuser can have on the safety of the workplace.

According to the Family Violence Prevention Fund, one in three women will report physical abuse at the hands of a partner at least once in her lifetime. Esta Soler, president of the San Francisco-based nonprofit, emphasized that domestic abuse incidents definitely have the potential to spill over into the work environment.

Employees "don't keep what is happening at home," Ms. Soler said. An abuser can follow an employee into the workplace, with abuse coming in the form of harassment or stalking, and potentially threaten the safety of the entire office, she said.

Domestic abuse is so "pervasive" that if employers are "proactive, you are going to have a safer workplace," Ms. Soler added.

Beyond threatening the safety of a workplace, domestic abuse can also limit employee effectiveness, increase medical costs and contribute to absenteeism. A survey of Fortune 1000 companies conducted by New York-based apparel company Liz Claiborne Inc. found that 47% of senior executives believed domestic violence reduced productivity, and 44% of the executives said that it increased health care costs.

Paul Starkman, an attorney and head of the employment group at Chicago-based Arnstein & Lehr L.L.P., said that, in the past, domes-

See ABUSE/page 11

# EEOC rule on retiree benefits remains on hold

By JERRY GEISEL

**WASHINGTON**—Employers looking for a speedy end to a four-year-old controversy involving retiree health care benefit plans are going to have to wait.

In April, the Equal Employment Opportunity Commission approved a rule to exempt retiree health care plans from the Age Discrimination in Employment Act (*BI*, April 26).

The practical effect of the EEOC rule, once finalized, is that employers can reduce or eliminate health care coverage when retirees become eligible for Medicare at age 65 without concerns about age-bias claims from the EEOC.

But now, four months since the EEOC proposed that rule, the agency has not finalized it, and a spokesman was unable to say when, or if, that will happen.

The proposed rule is "still in the interagency review process. We are waiting to see comments from other agencies," he said, adding the process has taken longer than expected.

But benefit observers in Washington say opposition to the proposal from a huge retiree advocacy group, the Washington-based AARP, may be responsible for the delay.

"The AARP has identified this as a big issue for them. That may have given pause to decision-makers to getting out a final rule," said Kelly Traw, a senior manager in the Human Resources unit of PricewaterhouseCoopers L.L.P. in Washington.

"There is a little sand in the gear, and things have slowed down drastically," said Neil Trautwein, assistant vp for human resource policy at the National Assn. of Manufacturers in Washington. "Unfortunately, opposition from the AARP has had an effect."

At the time the proposed rule came out, AARP Director of Advocacy Michael Naylor sharply criticized the rule, saying its adoption could jeopardize health care benefits retirees receive from their former employers.

Mr. Naylor further warned that if the issue is not resolved, the "AARP will explore a range of different steps, including litigation, to halt implementation."

Some say the EEOC is still on track to adopt the rule but is likely to hold off until after the November elections. Others, though, are less concerned about delays than the EEOC ultimately adopting something close to its proposed rule.

"The timing is less important than getting it right. Substance is more important than timing," said Paul Dennett, vp-health policy with the American Benefits Council in Washington.

The retiree health care issue has been brewing since August 2000,

See EEOC/page 11

BI 08-30-04 A 6 8/27/04 4:36 PM Page 1



# Reality TV: Coverage expensive

Continued from page 3

"We live in the most litigious society in the world, and no business is immune, not even entertainment," said a spokesman for the Insurance Information Network of California in Los Angeles. The exposures related to reality TV have been highlighted by several lawsuits in recent years against production companies, networks and television executives.

For example, Liza Minnelli and ex-husband David Gest in December 2002 sued Viacom Inc. and MTV Networks for $23 million—later settling for an undisclosed amount—claiming breach of contract after the network pulled the plug on their planned reality TV show, according to their lawyer, Mickey Sherman of the Stamford, Conn.-based law firm Sherman & Richichi.

In addition, in 2003, Kara Blanc filed a suit against the producers of the Sci Fi Channel show "Scare Tactics," claiming, among other things, emotional distress after she was taken into the desert and was terrified by actors posing as aliens.

Producers of NBC's upcoming reality boxing series, "The Contender," this month took producers of Fox's competing show, "The Next Great Champ," into the courtroom to spar over allegations of illegal business practices and a stolen idea.

When the reality TV craze began in the United States with "Survivor" in 2000, insurers generally thought the main exposure would be bodily injury claims, for which jury awards are relatively predictable, according to the IINC.

However, underwriters note that they are increasingly concerned about claim amounts that are much more difficult to predict, such as those related to embarrassment or theft of intellectual property.

And given the genre's unpredictable nature, covering exposures can be a challenge, said Leon Gladstone, an attorney specializing in entertainment insurance issues at the law firm of Berger Kahn in Marina del Rey, Calif. "Insurance companies are exposed to a lot of risks because of these shows, and what they don't like is unintentionally insuring a risk," he said.

"There's a lot of flying by the seat of the pants in reality TV," said Diane Yount, a vp in the Glendale, Calif.-based entertainment division of brokerage Arthur J. Gallagher & Co. "We hit brick walls trying to place coverage for reality shows."

Policies written for reality-based TV shows generally resemble those written for other programming, feature films or commercials, insurers and brokers say. Policies typically provide general liability coverage; a production package policy to cover sets, props and wardrobe; and errors and omissions insurance.

"Nothing gets aired without E&O coverage," said Ms. Yount. "And that's more difficult to place, because it's where most of the claims come in." Entertainment E&O protects producers against compensatory damages in lawsuits alleging character defamation, invasion of privacy and copyright infringement, among other things, though it does not cover punitive damages.

PHOTO: KRT

**Producers of the Fox television network's 'The Next Great Champ' are in court battling a lawsuit by a rival boxing reality show, NBC's 'The Contender.' Because of uncertain exposures, many insurers who cover such shows are raising rates.**

While underwriters generally aren't writing special reality TV policies, they are raising rates and toughening terms for such coverage.

According to Jon Paulsen, assistant vp of underwriting for St. Paul Travelers Cos. Inc.'s new national entertainment business unit in St. Paul, Minn., reality television insurance rates are 20% to 35% higher than those for traditional television shows, with additional surcharges tacked onto premiums depending upon the exposures.

Some production companies end up paying six-figure premiums for short-term policies of a year or less, according to Arthur J. Gallagher & Co.

Calls seeking comment from Rocket Science Laboratories, the West Hollywood-based production company behind reality shows such as Fox's "Joe Millionaire" and "Temptation Island," were not returned. In addition, the senior vp of production for Endemol USA, producer of shows such as ABC's "Extreme Makeover" and the forthcoming Fox show "The Next Great Champ," declined to comment.

"When reality TV shows first came out, we were very cautious. But we've grown with the industry," said Mr. Paulsen. Rather than pulling out of the reality TV market altogether, St. Paul Travelers has adopted a selective approach to underwriting. Among the insurer's main concerns are how tight the shooting schedule is and whether the show has a large enough budget; inadequacies in either can lead to shortcuts that compromise safety, he said.

He also noted that the insurer tends to avoid the sort of hidden-camera shows he calls "ambush" TV. "In the shows that St. Paul insures, the cast knows what they're getting into from the outset," Mr. Paulsen said

Stunt shows, on the other hand, are much more desirable from an underwriting standpoint, he said. "A lot of the stunts look very hazardous, but actually they're not. They can do a lot with camera angles," said Mr. Paulsen.

But even the most rehearsed stunts and crafty camera angles don't convince Wendy Diaz, executive underwriter in the entertainment division of the Novato, Calif.-based Fireman's Fund Insurance Co., which periodically has covered reality-based programs. Ms. Diaz declined to name specific shows, but said the company had insured every type of reality show.

"You've got average people doing stunts. While they get the training, they're not professionals. That's why we shy away from those" shows, Ms. Diaz said. "We've done a little bit of everything in the past and have learned from those accounts," she said. "It's litigation that's the issue."

Brokers say only a handful of insurers that will even consider covering reality shows.

Yet, for all of its new exposures, some say reality TV is actually less risky than it was just a few years ago.

"The process is better researched, better planned and safer than it ever has been," said Brian Kingman, senior vp for Los Angeles-based Aon/Albert G. Ruben Insurance Services Inc.

Moreover, Mr. Kingman said, "reality-based television has a lot of components that are actually lower-risk" than traditional television programming or feature films. For example, reality shows generally shoot far more footage than the average sitcom or movie, so if some is lost or damaged, it is easier to replace than scripted material.

"Reality TV has evolved and has certainly become much more sophisticated as it became more popular," said Chris Palmer, director of risk control for Aon/Albert G. Ruben, which has been a consultant for such hit reality shows such as "Fear Factor," "Big Brother," "Next Action Star" and "The Amazing Race."

However, that evolution may not head off growing litigation, some say.

"My prediction is it's just going to get tougher and tougher for these shows to obtain coverage," Ms. Yount said.

# Paul Winston

## *Looking for a few good excuses*

Excuses, excuses, excuses. Life is full of them. The dog ate my homework. When you said "today," I didn't think you meant *today.* It's not done yet because my computer keeps getting stuck. I can't come to work because my cow is in labor.

*My cow is in labor?*

Yes, that's one of the entries in a list I recently discovered of the best excuses for not coming to work. I assure you my interest in this list was purely professional. I'm pretty certain my boss would know I was lying if I said my cow was in labor. The cats on the other hand…

I stumbled across this funny list on the Web site of a sister publication, Workforce Management. Workforce's audience is HR professionals, and within its thriving online "community center" is an area titled "Life in Workforce Management" (*www.workforce.com*).

**Paul Winston**

One ongoing discussion thread in this forum that caught my eye was titled "Excuses for Not Coming to Work." While there is no way to prove the veracity of these postings, I think it's a safe bet that in this environment—peers exchanging war stories—more are true excuses than false ones.

Luckily for us, truth is always stranger than fiction.

Here are some of the better excuses, which I have categorized myself:

**Deception:**

*"I had an employee call in stating that he would not be at work due to the fact that his car broke down and he needed to fix it, but the caller ID showed that he was calling from an internal phone located in shipping."*

**Confusion:**

*"I had an employee call in sick, on their scheduled day off."*

*"One of my employees called in to say they were lost and couldn't find their way to work. This person lives 5 miles from work, has worked in the same place for 2 years, and has lived in the same town for the last 20 years. Go figure."*

**Overindulgence:**

*"We had someone call in because she was 'too drunk to work.'"*

*"I had a subordinate who called to say he wasn't coming in because he had been to a party the previous night and his entire body still ached with all the dancing!! Full marks for honesty, I guess!"*

*"I once had an employee call in saying she would be late arriving at work. She said she had too many hickeys on her neck and needed to wait until the stores opened to buy a turtleneck."*

**Mechanical problems:**

*"The best one I heard was an employee called in from our parking lot. He said he was going to be late because the door handle on his car just broke off and he was locked inside. He said that he needed to go to an auto mechanic to get it unlocked. When I suggested to him that he should use the passenger side door to exit the car, there was a few seconds of silence and then he said, 'right.'"*

*"One of our employees has called with several not-so-good excuses…most recently, the doorknob fell off her door and she couldn't get out of her apartment."*

*"My dad's secretary once called in and excused her way into not reporting for work. Her reason: 'I've gotta service my microwave oven….' (It was later found out that she had microwaved her access card, which was why it bummed out in the first place.)"*

**Animals:**

*"We had an employee call in and say that he couldn't come to work because his truck had been repossessed and his dog was in his truck. He had to get the dog back."*

*"Had a guy once who called to say he wouldn't be in because his cow was in labor."*

*"We had an employee who called in stating that a squirrel prevented her from getting into her car."*

I'm sure the HR department does not have a lock on excuses that strain one's ability keep a straight face.

Risk managers, no doubt, have also heard their share of fairy tales and tall tales when confronting accidental losses. Stories so ridiculous that they just might be true.

What are some of the worst excuses risk managers have heard? Can you top the ones heard by your peers? Please e-mail me the best of the worst excuses that risk managers have heard, and I'll print the best of the bunch. And I will keep your identity confidential—so you have no excuse not to share.

*Editor Paul Winston can be reached at pwinston@crain.com*

**Business Insurance**

**Vice President/Publisher:** Martin J. Ross III (New York)

**Editor:** Paul D. Winston (*Chicago*)
**Editor-at-Large**: Jerry Geisel (*Washington*)
**Managing Editor:** Regis J. Coccia (*Chicago*)
**Assistant Managing Editor - Graphics:** Kathy L. Barnes (*Chicago*)
**Assistant Managing Editor - News:** Gavin Souter (*New York*)
**Senior Editors:** Michael Bradford (*New Orleans*); Meg Fletcher, A.R.M. (*Chicago*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Dave Lenckus (*Tucson*); Douglas McLeod (*New York*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*); Rodd Zolkos–*Industry Focus* (*Chicago*)
**Bureau Chiefs:** Roberto Ceniceros (*Los Angeles*); Sarah Veysey (*London*)
**Associate Editors:** Gloria Gonzalez (*New York*); Peta Miller (*London*)
**Correspondents:** Carolyn Aldred (England); Gerard O'Dwyer (Finland); Elizabeth Fry (Australia)
**Copy Desk Chief:** Matt Scroggins (*Chicago*)
**Copy Editors:** Mary B. Nick (*Chicago*); Joe Walker (*Chicago*)
**Directory Editor:** Kevin P. Edison (*Chicago*)
**Assistant Directory Editor:** Carrie A. Brittain (*Chicago*)
**Assistant Graphics/Online Editor:** Amy R. Kepka (*Overland Park*)
**Executive Assistant/Reprint Manager:** Karen Brown Tucker (*Chicago*)
**Editorial Cartoonist:** Roger Schillerstrom (*Chicago*)

**Advertising Director:** Kenneth F. Luker Jr. (*New York*)
**Director - Business Development :** Robert L. Niesse (*Chicago*)
**District Managers:** Laura Booth (*Irvine, CA*); Chris Crain (*New York*); Ron Kolgraf (*Boston*); William J. McGuire (Chicago); Robert B. Murray (*New York*); John L. Phillips (*Chicago*)
**Classified Advertising Manager:** Irais Amleshi (*Chicago*)
**Assistant to the Publisher:** Pat Ghazvini (*New York*)
**Advertising Traffic:** Monique Murray (*New York*)

**Production Manager:** J. Thomas Janka (*Chicago*)

**Circulation Manager:** Rudolf Von Bartesch (*New York*)
**Circulation Coordinator:** Craig Bowman (*Detroit*)

**Director of Communications:** Ronnie I. Drachman (*New York*)
**Promotion Manager:** Michael Ambrosio (*New York*)
**Promotion Coordinator:** Barbara O'Brien (*New York*)

**EDITORIAL:** Chicago: 312-649-5200; Denver: 303-698-7601; London: 44-207-457-1400; Los Angeles: 323-370-2455; New Orleans: 985-871-1090; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200
**ADVERTISING:** Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133
**SUBSCRIPTIONS:** Detroit: 888-446-1422

*Business Insurance* is published by Crain Communications Inc.

**Chairman:** Keith E. Crain
**President:** Rance Crain
**Secretary:** Merrilee Crain
**Treasurer:** Mary Kay Crain
**Executive Vice President/Operations:** William A. Morrow
**Senior Vice President/Group Publisher:** Gloria Scoby
**Group Vice President/Technology, Circulation, Manufacturing:** Robert C. Adams
**Corporate Circulation Director:** Nina LaFrance
**Corporate Director/Production & Manufacturing:** Dave Kamis

**G.D. Crain Jr.** Founder (1885-1973)
**Mrs. G.D. Crain Jr.** Chairman (1911-1996)
**S.R. Bernstein** Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174,*biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048- 4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 8157 N. Torrey Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 777 E. Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-2244; 11133 W. 108th St., Overland Park, Kan. 66210, Fax: 312 280-3174. 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704. 4 Executive Circle, Suite 185, Irvine, CA 92614-6791. $5 a copy and $97 a year in the U.S., $130 in Canada and Mexico (includes GST). All other countries, $230 a year (includes expedited air delivery). Rudolf Von Bartesch, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Karen Brown Tucker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806, 312-649-5319, Fax: 312-280-3174.

BPA INTERNATIONAL

**To subscribe, call 888-446-1422, or 313-446-0450 outside the United States.**
***www.businessinsurance.com***

AMERICAN ABM BUSINESS MEDIA

## Editorial

# Build on ERISA benefits successes

THE 30TH ANNIVERSARY of the Employee Retirement Income Security Act this week is an appropriate time to reflect not only on the law's successes but also on how much more needs to be done to protect employees' retirement benefits.

The law's successes are striking. Consider that before ERISA, an employee could spend a career at a company, be covered under its pension plan and receive nothing at retirement.

That could happen if, for example, a company did not fund its pension plan and later went bust. Or, a pension plan could have been designed so that a short break in employment negated accumulated service counted toward vesting in a benefit.

ERISA changed all that and a lot more. Employers now are required to fund their pension plans, making it more likely that employees at retirement will receive the benefits they have earned. And if funding falls short of obligations and a company goes out of business, a federal agency—the Pension Benefit Guaranty Corp.—was created by ERISA to step in to guarantee benefits. Indeed, nearly 1 million people in failed pension plans would have lost a good chunk of their benefits over the past 30 years had it not been for the PBGC.

Similarly, ERISA eliminated sham vesting schedules, in which a short break in service could effectively eliminate all benefits for an employee, despite many years of service.

What ERISA accomplished was simple but vital: Protecting the benefits to which employees are entitled.

Unquestionably, through funding and vesting reforms and the creation of the PBGC, ERISA helped to restore public confidence in an employer pension plan system that had been badly scarred by scandal. That was a huge accomplishment.

But while the law in many ways has been a success, it has not been enough to ensure the stability of the nation's pension system.

But the blame lies not with ERISA, but instead with shortsighted lawmakers and complex and confusing federal regulations.

For example, it has been evident for a very long time that pension funding rules are a mess. Under current rules, employers that are financially able to make bigger contributions to their plans are barred from doing so by maximum contribution limits, and yet minimum funding rules are too weak to assure funding adequacy in many plans.

The government has mismanaged the nation's pension system in other ways. Rather than embracing new types of plan designs—such as cash balance plans—that address legitimate business concerns, politicians and regulators have failed to develop rules for the plans. This has resulted in employer uncertainty and a slew of litigation by participants, prompting some employers to exit the defined benefit plan system altogether.

Certainly, the challenges facing the pension system today are less than they might have been without ERISA, but they are significant. Without a will to act, as there was in 1974, the challenges will go unmet, and a weaker private pension plan system will be the result.

Employers and employees alike should demand better.

# Regulatory reform draft falls short

A DRAFT PROPOSAL to modernize insurance regulation is drawing praise from insurance buyers, industry representatives and state insurance regulators, but we believe the proposal is a far cry from solving all the shortcomings of the current system.

As we report on page 1, the core of the draft upholds the authority of states to regulate the insurance industry, but the proposal calls for two big changes: federal pre-emption of state rating laws, including deregulation of almost all commercial lines risks; and a "state-national insurance coordination partnership" to oversee uniformity efforts and resolve conflicts.

Commercial lines deregulation would open the door to product innovation, a change that risk managers, insurers and brokers have long sought. But criteria defining the parameters of special exemptions for large or sophisticated commercial policyholders are yet to be determined.

A state-national partnership could offer intriguing possibilities as a bridge between the loosely connected individual state insurance departments and a purely federal system of regulation. But, thanks largely to the National Assn. of Insurance Commissioners, the draft envisions a partnership that lacks "any regulatory or supervisory authority." The NAIC, it is clear, doesn't want to give an inch even to the possibility of federal oversight.

So where would this leave insurance regulation? Pretty much where it is now.

To its credit, the NAIC has tried to develop uniform standards through its accreditation program, but not all insurance departments have achieved accreditation, and state legislatures must adopt standards put forth by the NAIC for this to work on a nationwide basis. In this system, changes—if they happen at all—take place slowly.

We'd like to believe that the regulatory modernization draft will benefit insurance buyers and lead to greater efficiency in the industry, but modernization won't happen until state regulators agree to consider new alternatives.

## Schillerstrom

HE MUST BE ONE OF THOSE 1.4 MILLION ADDED TO THE LIST OF THE UNINSURED....

1.4 m NEW UNINSURED

SCHILLERSTROM BUSINESS INSURANCE ©2004

## Letters to the Editor

*Business Insurance welcomes letters to the editor. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to:*

*Letters to the Editor, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: pwinston@businessinsurance.com.*

*Letters can also be submitted online via the feedback area of www.businessinsurance.com.*

## Weekly online polls

*Each week, Business Insurance posts an opinion poll question about current industry issues and events on www.businessinsurance.com.*
*Visit the Business Insurance Web site and cast your vote in the weekly online polls.*

***Business Insurance* welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: *pwinston@crain.com***

MH 08-30-04 A 10 8/26/04 5:02 PM Page 1



# Latest workplace litigation a mixed bag

## For employers, the year's key U.S. decisions and settlements include some big wins, losses

**By Gerald L. Maatman Jr.**

The U.S. Supreme Court opens its 2004 fall term on the heels of some significant battles employers fought in U.S. courthouses during the last year. While employers fared well in four key Supreme Court decisions, class action settlements and rulings favored plaintiffs. These decisions—and two key class action developments—add to the dynamics of workplace risks that many employers face in the coming year.

On the class action front, Morgan Stanley settled a gender discrimination pattern-and-practice action with the U.S. Equal Employment Opportunity Commission in July 2004 for $54 million. The settlement was all the more remarkable in that it did not involve private plaintiffs' lawyers, and none of the settlement funds included attorney's fees. Simply stated, it is the largest EEOC settlement of its kind ever. It demonstrates the EEOC's continued targeting of high-profile industries and its tenacity in pursuing full remedies against employers.

The Morgan Stanley settlement came on the heels of the most significant ruling secured by the plaintiffs' bar in an employment discrimination class action, *Dukes et al. vs. Wal-Mart*. The June 16 ruling by the U.S. District Court for the Northern District of California certified a class action for alleged discrimination in pay and promotions against America's largest employer. The class is estimated to number in excess of 1 million women. The class certification ruling is all the more noteworthy because of its endorsement of a new tactic of the plaintiffs' bar—that employers should stand trial for an award of punitive damages in a class action setting. A trial on classwide punitive damages dramatically alters the calculus of risk in a class action setting, and critics of the ruling contend it will promote blackmail settlements. While Wal-Mart's appeal of *Dukes* to the U.S. 9th Circuit Court of Appeals is pending, the EEOC and the private plaintiffs' bar are now pushing similar theories of recovery against employers in myriad major class actions around the country.

In the U.S. Supreme Court, employers received a mixed bag in the workplace litigation decided during the 2003/04 term.

In *Pennsylvania State Police vs. Suders*, the high court determined that the so-called Ellerth/Faragher workplace harassment affirmative defenses are available to employers in cases of constructive discharge unless an official company act—such as a humiliating demotion, extreme pay cut or job transfer—precipitated the constructive discharge. In constructive discharge claims resulting from alleged co-worker harassment or unofficial supervisory harassment, an employer can avoid or reduce liability by establishing the Ellerth/Faragher affirmative defense. Thus, *Suders* reinforces how critical it is for employers to create and distribute anti-discrimination/harassment personnel policies, while maintaining effective complaint procedures that encourage harassed employees to come forward without fear of retaliation.

In *General Dynamics vs. Cline*, the Supreme Court held that the Age Discrimination in Employment Act does not stop an employer from favoring an older worker over a younger one within the protected age category of 40 years of age or older. In so holding, the Supreme Court rejected the so-called "reverse age discrimination theory," which the plaintiffs' bar had championed as a legitimate cause of action under the ADEA. The Supreme Court's ruling gives the green light to employers to make aged-based distinctions in employee benefits and other facets of employment so long as they benefit relatively older workers within the protected age group. Hence, employers can limit retiree medical benefits to a subset of older workers in the protected age group without violating the ADEA, as well as use age-based distinctions favoring older workers in early retirement or exit incentive programs.

In *Raytheon vs. Hernandez*, the Supreme Court ruled that a neutral no-rehire policy generally shields an employer from a disparate treatment claim under the Americans with Disabilities Act. The decision in *Hernandez*, the second ruling by the Supreme Court on the substantive protections of the ADA, favors employers but failed to address the vexing issues presented by facially neutral employment rules and policies and whether such policies must be modified to accommodate persons who are actually disabled under the ADA.

Finally, in *Jones vs. R.R. Donnelley & Sons*, the Supreme Court decided a procedural issue of significance: the appropriate statute of limitations for claims of workplace race discrimination brought under Section 1981 of Title 42. Unlike Title VII, which has a 300-day statute of limitations for acts of workplace discrimination, Section 1981 has no explicit statute of limitations. The Supreme Court resolved conflicting case law and determined that the statute of limitations is governed by Section 1658 of Title 28, the so-called four-year "catch-all" statute of limitations for federal causes of action. This ruling provides all litigants with certainty, although it keeps the courthouse doors open longer to Section 1981 claims than to Title VII claims.

In sum, the courthouse scorecard for workplace litigation gave employers, human resources professionals and risk managers plenty to think about in the U.S. Supreme Court's 2003/04 term.

*Gerald L. Maatman Jr. is a partner in the Chicago law firm of Seyfarth Shaw L.L.P.*

# Asbestos stopgaps useful as Congress feuds

**By Angela R. Elbert**

**Pleural registries and multidistrict litigation can temporarily help unclog court dockets until a legislative remedy is available.**

The asbestos litigation mess appears no closer to ending with the apparent failure of the latest congressional attempt to set up a trust fund to compensate victims of asbestos-related illness. Two gap-filling measures may offer some relief to overloaded court dockets, sick plaintiffs and businesses facing financial ruin while Congress feuds.

What Supreme Court Associate Justice David Souter called the "elephantine mass" of asbestos litigation is the longest-running tort in U.S. history. Legal scholars who wondered for years what was going to be "the next asbestos" have discovered, to their surprise and dismay, that asbestos is the next asbestos. Congress, insurers, businesses and the legal community have clashed for decades over how to create a system that both fairly compensates victims of asbestos-related diseases and preserves the financial viability of the companies and insurers that would pick up the tab. The asbestos battleground has now moved to a new phase with even more litigation, rising insurance costs and gaps in insurance coverage, a phase that is not expected to begin abating until 2015. What is the solution to this crisis?

Courts have called for legislative remedies. In two separate decisions—1997's *Georgine vs. Amchem Products* and 1999's *Ortiz vs. Fibreboard Corp.*—the U.S. Supreme Court overturned lower court rulings that implemented huge class action settlements of asbestos claims. These decisions made clear both that the Supreme Court will not permit class actions to resolve the asbestos crisis and that it believes legislation is the only appropriate solution.

Congress has not yet heeded the Supreme Court's call. A revised asbestos litigation reform bill that would create a multibillion-dollar trust fund to compensate the victims of asbestos-related disease has stalled in the Senate. Even in the unlikely event that the bill were to pass, it would create a new set of issues.

In the meantime, certain other gap-filling measures have been developed, including the creation of pleural registries and multidistrict litigation, or MDL. Legal analysts estimate that 90% of the asbestos suits have been filed by plaintiffs who are not currently sick. As a result, pleural registries, or inactive or deferred dockets, continue to be adopted. Generally, under these systems, filed cases remain inactive unless and until the plaintiff provides objective evidence of actual injury. Longstanding pleural registry dockets exist in Baltimore, Boston, Chicago and the federal court system. More recently, such dockets have been established in New York City and Syracuse, N.Y., and in Madison County, Ill., and they may be instituted elsewhere.

In addition, Ohio recently enacted a law that establishes medical criteria that define "impairment" for persons alleging asbestos-related injuries. More stringent than the norm, this law provides that any claimants who cannot prove impairment will have their lawsuits dismissed.

The Michigan Supreme Court also heard arguments in January on the use of deferred dockets. Opponents argued that deferred dockets are a "substantive change in the law" that should be reserved to the Legislature. Proponents argued that it is a procedural change in the administration of claims well within the judiciary's authority. The court took the matter under advisement.

MDL, by providing a mechanism for transferring cases with common issues to a single judge for pretrial proceedings, may also help unclog the system. The oldest of these arrangements is the federal MDL in Philadelphia. Several jurisdictions have made use of MDL or similar procedures to deal with the growing numbers of pending asbestos suits.

As a result of recent tort reform, Texas law provides for a consolidated MDL. Similar to the federal MDL statute, the Texas law provides a mechanism for transferring cases filed after Sept. 1, 2003, to a single judge for all pretrial proceedings. Five appointed judges sit on the Texas MDL panel and are responsible for selecting appropriate cases and assigning judges to preside over them. Although most pending asbestos claims were not transferred, newly filed cases were, and decisions from the MDL judges may have precedential effect on cases not included. Less formally, West Virginia courts have also recently made use of similar MDL-like procedures.

These gap-filling measures may provide some temporary relief. There will be no comprehensive solution, though, without federal legislation. Unfortunately, given the upcoming election and the Senate's inability to pass a bill, it appears increasingly unlikely that such relief will come this year. Given the significance of the issue to all involved, this is the time to redouble efforts to find an agreeable compromise.

While the steps undertaken thus far deserve applause, they fall far short of the finish line. In the meantime, more state legislatures or specific court jurisdictions should consider adopting and using the pleural registry or MDL methods to temporarily help unclog court dockets and make sure that those who are really sick are put to the front of the long litigation lines.

*Angela R. Elbert is a senior associate at Mayer, Brown, Rowe & Maw L.L.P. in Chicago. The opinions in this article are not necessarily those of MBRM, its attorneys or its clients.*

# EEOC: Rule on retiree benefits remains on hold

Continued from page 4

when the 3rd U.S. Circuit Court of Appeals ruled that retiree health care plans are subject to the ADEA. To prevent a charge of age discrimination under that act, an employer must offer the same health care coverage to Medicare-eligible retirees as they do to younger retirees or spend the same amount on health care benefits for both groups.

The potential impact of the so-called Erie County ruling was enormous. Virtually all employer plans would be in violation, since employers typically provide richer benefits to younger retirees than to older retirees who are eligible for Medicare benefits.

In the wake of the Erie County ruling, employers and others said that, to reduce the threat of litigation, they would be forced to either cut the benefits of younger retirees to equal the level provided to Medicare-eligible retirees or eliminate coverage. Upgrading the benefits provided to older retirees was not a realistic option given the cost involved.

Indeed, Erie County, Pa., the defendant in the case, later settled by cutting benefits to younger retirees. Among other things, Erie County began requiring younger retirees to pay monthly premiums equal to what older retirees paid in premiums for Medicare Part B coverage.

**While the EEOC has yet to finalize its proposed rule to exempt retiree health care plans from the ADEA, observers note that employers should not be unduly concerned, because the agency scrapped the Erie County ruling from its enforcement manual.**

Additionally, Erie County moved the younger retirees out of a point-of-service plan and into an HMO. A federal judge earlier had ruled in the case that a POS plan was objectively superior to the Medicare HMO from which the older retirees received coverage because POS enrollees can decide on a service-by-service basis whether to stay in or leave the plan's provider network, while an HMO does not offer such a choice.

"The Erie County retirees lost by winning," ABC's Mr. Dennett said, referring to the county's cutback in benefits for younger retirees. The county's 114 older retirees that made up the class filing suit did, however, receive as part of the settlement a total of $205,000, or about $1,800 each, which represented the aggregate amount older retirees paid in Medicare Part B premiums over a three-year period.

While the EEOC has yet to finalize its proposed rule to exempt retiree health care plans from the ADEA, observers note that employers should not be unduly concerned, because the EEOC earlier scrapped the Erie County ruling from its enforcement manual and has given no indication that it will reverse that policy.

"There is no enforcement out there," said Frank McArdle, a consultant with Hewitt Associates Inc. in Washington.

# Abuse: Employers help address domestic violence

Continued from page 4

tic abuse was a "hidden topic" that companies did not address.

Abuse was regarded as a personal issue best left at home. But now companies are taking a "more sensitive, proactive approach" in dealing with domestic violence, Mr. Starkman said.

Recent state legislation has begun to regulate the treatment of employees facing domestic abuse, forcing companies to re-examine how their workplace policies address the issue.

According to the New York-based women's legal rights group Legal Momentum, nine states have passed legislation allowing employers to seek restraining orders against individuals who threaten their employees.

Twenty-six states grant unemployment insurance to those forced to leave their jobs because of domestic violence. Six states require companies to provide leave for employees needing to take time off to deal with concerns related to domestic abuse such as court dates, counseling, medical care and relocation. Ten states prohibit discriminating against a victim of domestic abuse in "certain circumstances," Legal Momentum said, while Illinois is the only state to have enacted legislation prohibiting all forms of workplace discrimination against a victim.

Such legislation clarifies that employers "have a duty to make accommodations," Mr. Starkman said.

Critical to making such accommodations and addressing domestic abuse is establishing a general safety policy that covers all forms of violence and abuse.

Mark Hinson, assistant superintendent of Adams 12 Five Star Schools in Thornton, Colo., said that the role of the school district's human resources services is to maintain a culture of support.

**Employee training and access to local abuse counselors are part of a Harman International Industries policy on domestic abuse. 'Everyone (benefits) from having this policy in place.'**

*Lynn Harman*
*Harman International Industries Inc.*

Mr. Hinson also stressed that it was "important that human resources not usurp the role of medical professionals." HR professionals should have knowledge of the issues surrounding domestic abuse and help employees seek the counseling and other resources they need for help.

One way to educate supervisors, HR staff and security professionals is through company training. The San Francisco-based Blue Shield of California Foundation offers free training sessions for California companies.

Marianne Balin, manager of the Blue Shield Against Violence Program, said the sessions explain how to spot the characteristics of abuse and how to respond in "safe and appropriate" ways.

Training involves local domestic abuse agencies that are often "indispensable," said Ms. Balin. Local agencies typically have a better understanding of the resources available in the community and how the court systems work, she pointed out.

Companies such as Harman International Industries Inc., a manufacturer of audio electronics based in Washington, also incorporate training and local abuse counselors into their policies. At Harman, domestic abuse training is mandatory for its 3,000 employees. The company's protocol includes working with security personnel and a referral system. Harman's policy on domestic abuse training has been in place since 1996; it was prompted by the murder of an employee by her ex-husband.

Lynn Harman, corporate counsel for Harman, said that implementing the policy has been "relatively inexpensive" and that employees now seek help when they once feared embarrassment or termination.

"Everyone (benefits) from having this policy in place," Ms. Harman said.

Along with providing training, managing security risks is another important area, observers say.

Barry Nixon, executive director of the Lake Forest, Calif.-based National Institute for the Prevention of Workplace Violence Inc., helps conduct training with some of the Blue Shield Against Violence clients. He said such measures as encouraging employees to disclose the existence of restraining orders and monitoring entrances are "obvious" steps. But he advocated taking a more active stance.

Liz Claiborne Inc. CEO Paul Charron has participated in forums to raise awareness of domestic abuse. His company is among a growing number of employers that have policies addressing abuse.

Employers should get "ahead of the curve" by having supervisors create an open dialogue with employees, Mr. Nixon said. If, for example, security personnel have been alerted to instances of an employee being harassed, they potentially can act sooner.

Other companies, including Liz Claiborne, conduct security assessments as part of their domestic abuse policies. Often this means evaluating the threat an abuser poses to the office and taking precautions such as changing the location of an employee's desk or parking spot or alerting security personnel to the existence of a restraining order.

Along with conducting security assessments, Liz Claiborne trains HR professionals and managers how to spot and respond to domestic violence; the company maintains a domestic violence response team specifically to deal with victims. Employees are urged to contact the National Domestic Violence hotline or are directed to local agencies or employee assistance programs.

In the two years that the company has had its workplace program in place, Liz Claiborne, with 13,000 employees worldwide, has handled 40 formal cases that required more action than a referral, according to Dennis Butler, vp of associate relations.

"In the last two years, I've appreciated that (domestic violence) does have a real impact on the office," Mr. Butler said. "You can't ignore it."

How to *save* 61¢ on every billed health care dollar

Benesight
A Fiserv Health™ Company
www.benesight.com/bi

MH 08-30-04 A 12 8/26/04 5:04 PM Page 1



# Commentary

## Fans fear collapse, but only in the fall

Various discussions with concerned family and friends this summer have convinced me that there's a widespread perception across the country that Chicago's Wrigley Field is one good lake breeze from collapsing into rubble.

The structural problems at the venerable home of the Chicago Cubs, which have manifested themselves over the past few months in chunks of concrete falling from the upper deck, are undoubtedly something that needs to be addressed.

Still, I don't expect our upper-deck seats to become lower-deck seats any time soon. And, if somehow they should, I'm sure we'll get an invoice from the Cubs ticket office for the difference.

For those of you who might have missed this summer's hot Chicago story, here's a bit of a recap. Basically, it came to light in July that since June three chunks of concrete had fallen from the underside of Wrigley Field's upper deck onto the seating area below. In response, Mayor Richard Daley demanded the team address the issue or face the possibility that the ballpark could be declared unfit for occupancy.

Rodd Zolkos

Along the way, the mayor also criticized coverage of the issue in the Chicago Tribune, noting attention the newspaper had given to falling masonry and construction issues at other structures in the city.

The Cubs, of course, share ownership with the Tribune. And within the Cubs' front office, at least, there seems to be a sense that Mayor Daley is making the Tribune Co. subsidiary headquartered at Clark and Addison pay the price for what the mayor considers the transgressions of the paper.

Last week, Cubs President Andy MacPhail was quoted as saying the city had conducted enough inspections of Wrigley Field that "they should be satisfied we are not printing a newspaper here." The mayor responded by suggesting that Mr. MacPhail's employers "should put a clamp on his mouth."

You hear a lot these days about the increasing prominence of business as a factor in sports. In Chicago, at least, politics often plays a part as well.

A further issue for Cubs fans and conspiracy theorists is that despite gradually moving himself northward in recent years from his South Side ancestral homeland, Mayor Daley is, after all, a White Sox fan. What better way to get into the heads of the Cubs and their fans than to cast uncertainty on the availability of their beloved home park?

For his part, the mayor says his only concern is the safety of the baseball-going public.

In July, the Cubs and Tribune Co. inspected the entire upper deck, made some repairs and planned more extensive work for the off-season. Last week, city inspectors again OK'd the repairs and gave the Cubs the go-ahead to keep playing at Wrigley.

The most obvious aspect of all of this to fans, probably, is that in a perfectly appropriate risk management response, the Cubs have hung black netting beneath the entire upper deck to catch any additional bits of the stadium that might come loose.

I suppose the dark-colored netting was chosen in hopes that it would be somewhat less obtrusive than some other shades might have been, but I think that's the wrong approach. Fans of some newer ballparks sometimes criticize Wrigley for its lack of amenities and a relatively uninspired concession selection. I say the nets hanging below the upper deck can be more than good risk management—they can be a chance to address some of those criticisms head on!

Why not take advantage of the nets to create a whole fun summer-at-the-shore oyster bar motif for lower-deck fans. I say the Cubs should fill the nets with plastic fish and crustaceans, hang a couple of buoys and lanterns around the place and add items like "Corey's Catch of the Day" or "Grudzielanek's Grog" to the concession menu. Who says risk management can't be fun?

Along those same lines, some enterprising sorts have taken to selling construction hard hats outside Wrigley Field. But I think they, too, are missing the boat. The Cubbie blue hats some folks are selling are nice and all, but I think anyone with any sense of history knows that the proper choice would be the yellow helmets favored by the original Bleacher Bums in 1969. With retro jerseys all the rage these days, a tip of the hard hat to the Summer of '69 seems the only way to go.

If only Harry Caray was still around, he'd be able to put this all in proper perspective: "You can't beat fun at the old ballpark."

*Senior Editor Rodd Zolkos can be reached at rzolkos@businessinsurance.com.*

# Comings & Goings

Ms. Peat

Ms. Heller

Mr. Darwin

## Insurers:

Philadelphia-based ACE USA Inc. has made two senior-level appointments at its ACE Global Energy division:

- **Frank Pedicini** has been named senior vp-global energy and New York branch manager. Previously, Mr. Pedicini was vp-underwriting, for ACE Global Energy.
- **Edwin Duffy** has been named senior vp and Houston branch manager for the newly opened office there. Before joining ACE, Mr. Duffy was vp of the onshore energy division of Liberty International Underwriters.

**Pamela J. Penny** has been named senior vp of finance at Houston-based HCC Insurance Holdings Inc. Previously, she was senior vp and controller for Aegis Mortgage Corp.

St. Petersburg, Fla.-based Bankers Insurance Group has made two senior-level appointments:

- **Barbara A. Peat** has been named senior vp and chief marketing officer, assuming the responsibilities of **Kathleen Batson**, who is retiring at the end of the year. Previously, Ms. Peat was vp of corporate marketing and communications.
- **Teresa Heller** has been named senior vp and chief administrative officer of Bankers' property/casualty companies. Ms. Heller previously was a vp.

Cincinnati-based Great American Insurance Group has promoted **John W. Sullivan** to divisional president of its specialty human services division. Previously, Mr. Sullivan was senior vp.

**David M. Siesko** has been named chief claims officer-global corporate at Zurich Insurance Co. Mr. Siesko, who will be based in New York, will continue as executive vp of the technical claims group for North America.

## Agents/brokers:

Noodle Specialty Brokers, a newly formed division of InsuranceNoodle Inc., has named **James A. Fowler** and **John D. Keyes** as senior vps. Mr. Fowler, who will be responsible for workers compensation, previously was executive vp at XL Capital Ltd. Mr. Keyes will be responsible for property and casualty line development; before joining Noodle Specialty Brokers, he was a commercial lines underwriter for SHG Insurance Services.

**Terry Doherty** has been named senior vp/construction department manager at Lockton Cos. of Colorado Inc. in Denver. Previously, Mr. Doherty was senior vp/marketing director with Aon Corp.'s construction risk division.

Another Lockton Cos. Inc. unit, Kansas City, Mo.-based Lockton Risk Services, has named **Kirke Dorweiler** as executive vp. Previously, Mr. Dorweiler was chairman and chief executive officer of Marsh Inc.'s affinity and private client practice.

## Reinsurance:

Transatlantic Holdings Inc. has named **Kenneth Apfel** as senior vp and chief actuary. Before joining the New York-based company, Mr. Apfel was senior vp at AIG Reinsurance Advisors Inc.

New York-based Willis Re Inc. has appointed **Stephen H. Darwin** as senior vp. Previously, Mr. Darwin was vp and excess and surplus lines and umbrella manager for Converium Reinsurance (North America).

**Larry Jackson** has been named director of underwriting at Summit Reinsurance Services Inc. Previously, Mr. Jackson, who will be based in Fort Wayne, Ind., was senior actuary-annuity products at Lincoln Financial Group.

## Surplus lines:

Hopkinton, Mass.-based GreenWood International Insurance Services has named **Joseph Sullivan** as executive vp. Previously, Mr. Sullivan was senior vp of the managing general underwriter.

Also at GreenWood, **J.P. Nerny** has been named senior vp and chief marketing officer. Mr. Nerny, who will be based in Atlanta, previously was vp and director of sales.

## Other providers:

**Michael J. Raffaele** has been named president of Qmedtrix Systems Inc., a Portland, Ore.-based provider of health care cost containment services. Mr. Raffaele will retain the title of chief operating officer.

Memphis, Tenn.-based Sedgwick Claims Management Services Inc. has named **Dr. Pamela A. Hymel** as senior vp and corporate medical director for North America. Before joining the claims management firm, Dr. Hymel was vp of human resources for medical services, benefits and HR systems for Hughes Electronics Corp.


# Business Resources

*To place your ad, contact **Irais Amleshi** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@BusinessInsurance.com*
***Business Insurance, Business Resources, 360 N. Michigan Ave., Chicago, IL 60601-3806.***

WLT Software of Florida, Inc.
Windows Based Claims Management
Call 1-877-807-4730
www.wltsoftware.com
Insurance Software Specialists

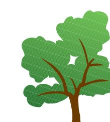
CPCU, AIC, INS & AIS Students
Use AICPCU/IIA's SMART Study Aids and learn more. You'll thank yourself on exam day.
Order Today!
(800) 644-2101 • www.aicpcu.org
AICPCU IIA Succeeding together.
EDUCATION • RESEARCH • ETHICS

CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates
Executive Summaries so good, you'll pass the first time, every time or your money back!
Call 1-888-BURNHAM Now!
www.BurnhamSystem.com

Your Target Audience IS HERE!

Where Is YOUR AD?

Grow Your Business
Advertise in *BI*'s Business Resources
Call (312) 649-5340 for details



BI 08-30-04 A 13 8/27/04 3:37 PM Page 1



# Russian authorities eye terrorism as cause of 2 passenger jet crashes

By SARAH VEYSEY

**MOSCOW**—Authorities investigating the nearly simultaneous crash of two Russian passenger jets last week have confirmed that traces of explosives have been identified in the wreckage of one of the planes.

The two jets, operated by Siberia Airlines and Volga Avia-Express, crashed minutes apart after leaving Moscow's Domodedovo International Airport Tuesday night. All 89 passengers and crew aboard the planes were killed.

Russia's federal security service said Friday that traces of explosives had been found in the wreckage of Siberia Airlines' Flight 1047. The Tupolev 154 jet was en route to Sochi when it disappeared from radar at about 11 p.m. local time. The plane crashed in a village near Rostov-on-Don, killing 38 passengers and eight crew members.

In a statement issued late last week, Siberia Airlines said that an explosive known as hexogen had been found in the plane's wreckage.

The day after the crashes, Domodedovo International Airport issued a statement noting that all routine preflight security checks had been carried out on the two planes before takeoff.

In its statement, Siberia Airlines said that, according to information from the Russian Unified System of Air Traffic Control, its Tu-154 plane sent out a hijack alarm shortly before it vanished from radar.

The extent of insurance losses arising from the disaster—and the question of whether some will be borne by Russia's terrorism pool—won't be known until the investigation is complete, sources said.

PHOTO: AFP

Russian authorities inspect the wreckage of a Tupolev 154 jet that crashed on Aug. 24 in Globoky, a village near Rostov-on-Don.

Siberia Airlines has civil liability insurance underwritten by Moscow-based Ingosstrakh Insurance Co.

In addition, the airline said that it has hull and liability coverage from Moscow-based aviation insurer AFES Insurance Co. The value of its jet, which was built in 1982, was not disclosed.

Coverage information for the other aircraft, a Volga Avia-Express plane en route to Volgograd, was not available. The Tupolev 134 jet was carrying 35 passengers and eight crew members when it crashed near Tula.

Sources said it is too early to determine whether some of the losses from the crashes will be covered by Russia's Terrorism Risk Insurance Pool. The pool was set up by six domestic insurers in the wake of the Sept. 11, 2001, terrorist attacks in the United States.

A spokeswoman for Ingosstrakh, which was one of the pool's founders, said that it won't be possible to determine whether the pool will be tapped until the official investigation into the crashes is complete.

A Russia-based insurance broker said, though, that the pool may not be activated regardless of the official findings, and that the government may instead provide compensation.

# Oslo museum's stolen works of art insured for damage, but not theft

**OSLO, Norway**—There is no insurance coverage to respond to the theft of two Edvard Munch paintings from an Oslo, Norway, museum.

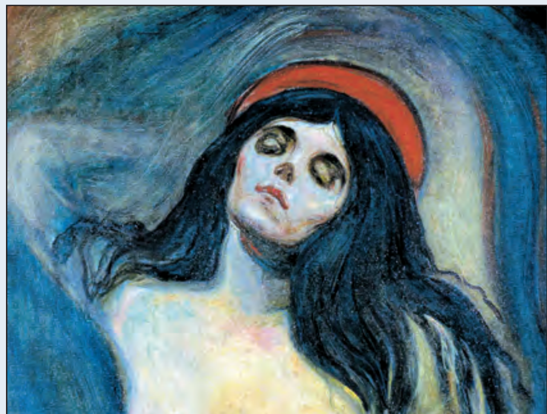
One of the paintings, one of four existing versions of Munch masterpiece "The Scream," was valued at about $60 million to $75 million, experts said. Estimates of the value of the other work, "Madonna," were not available. The works were stolen from the Munch Museum on Aug. 22.

Another version of "The Scream" was stolen in 1994 from the National Gallery of Oslo but was later recovered.

The museum and the paintings are owned by the city of Oslo. A spokesman for the museum's insurer, Oslo Forsikring A.S., said that the works are not insured against theft. He noted that because the paintings are "irreplaceable" and are likely to be unsellable, "insurance in respect of total loss is meaningless."

The spokesman noted that the works are insured against fire and water damage, which would cover needed restoration if the paintings are recovered.

*—By Sarah Veysey*



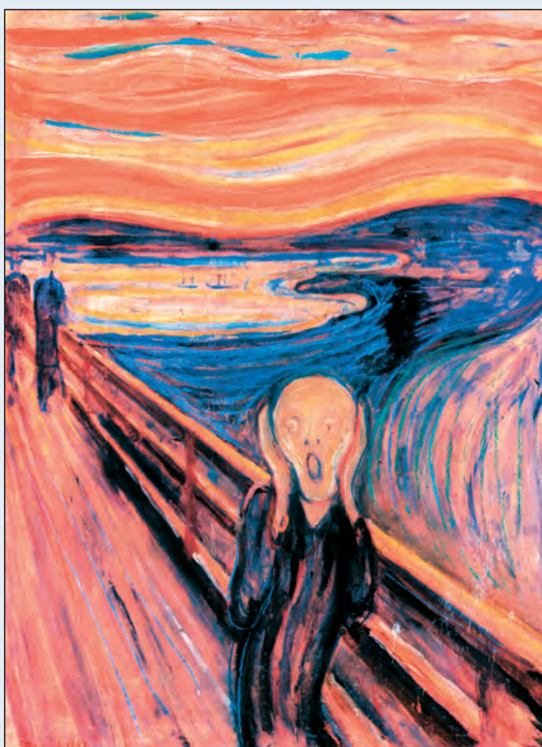


PHOTO: AFP

Two Edvard Munch paintings—"Madonna," at left, and one of four versions of "The Scream"—were stolen from an Oslo, Norway, museum on Aug. 22.

# Equitas to settle Hercules claims

**LONDON**—Equitas Ltd. has reached a $97 million settlement that will resolve current and future asbestos claims of Hercules Inc.

Equitas, the runoff reinsurer for the pre-1993 long-tail liabilities of Lloyd's of London syndicates, will pay $30 million to the Wilmington, Del.-based chemical company and $67 million to an asbestos trust for claims against Hercules.

If asbestos liability reform is enacted in the United States before 2007, part of the trust's funding will be returned to Equitas.

Simon Wright, head of asbestos, pollution and health hazard claims at Equitas in London, said in a statement that Equitas is "actively involved in a number of negotiations with other policyholders and remains willing to have similar discussions with all counterparties that are prepared to engage in a realistic and commercial dialogue."

Over the past two years, Equitas has entered several large asbestos settlements, including agreements with Halliburton Co. and Travelers Property Casualty Corp.

*—By Sarah Veysey*

# World Updates

## Swiss Re profits double on investment gains

Swiss Reinsurance Co. posted net income of 1.4 billion Swiss francs ($1.11 billion) for the first half of 2004, up from 691 million Swiss francs ($512.4 million) for the comparable period of 2003. Swiss Re attributed the gain chiefly to good underwriting conditions and to improved investment results. Swiss Re's total premiums earned fell 1.7%, to 14.14 billion Swiss francs ($11.17 billion) in the first half of 2004, in part because of selective underwriting, the company said. The combined ratio of its property/casualty operations improved 3.7 percentage points, to 96.1%.

## SCOR revenues fall, profits increase

SCOR S.A. reported net income of 58.1 million euros ($70.7 million) for the first half of 2004, a 38.7% increase over the comparable period last year. The Paris-based reinsurer reported gross written premiums of 1.30 billion euros ($1.58 billion) for the first half of 2004, down 36.8%. The decrease reflects SCOR's previously stated strategy of pulling back in several lines of business, the reinsurer noted in a statement. SCOR last year announced a turnaround plan in response to large losses and ratings downgrades.

## Wellington updates profit forecasts

Wellington Underwriting Agencies Ltd., the Lloyd's of London managing agency owned by Wellington Underwriting P.L.C., reported updated profit forecasts for its multiline syndicate 2020 for the 2002 and 2003 years of account. For 2002, Wellington said, the syndicate likely will make a profit of 10% to 15% on its capacity of £624.2 million ($1.00 billion) for that year. For 2003, the syndicate will make an estimated 11% to 18% profit on its capacity of £699.1 million ($1.25 billion). In addition, Preben Prebensen was named chief executive of Wellington. Mr. Prebensen, formerly an investment banker and currently an investment adviser, will succeed Julian Avery, who will retire from Wellington's board on Sept. 20.

## Messenger appointed chairman of IUA body

Len Messenger has been appointed chairman of the London-based International Underwriting Assn.'s marine technical committee. Mr. Messenger, energy underwriter at Zurich Global Energy in London, succeeds Graham Hensman, marine underwriter at Allianz Marine & Aviation.

BI 08-30-04 A 4,14 8/27/04 4:47 PM Page 2




# Professional MarketPlace

BUSINESS OPPORTUNITY

CA DIC PROGRAM
Seeking new issuing paper.
Please call us at
415-362-7493

REINSURANCE

We are Looking for Loss Portfolio Transfers Between $200,000 and $10mm.
Are you Looking to Close Out Outstanding Captive Years, Transfer Reserves from 1 Or Multiple Years?
Visit our website at: www.jrso-inc.com or Email us at: mike@jrso-inc.com
Call: (847) 778-7969

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING-UP)
No. 161 of 2000
IN THE MATTER OF THE COMPANIES ACT 1981
AND IN THE MATTER OF LEGEND REINSURANCE COMPANY LIMITED

NOTICE TO CONTRIBUTORIES AND CREDITORS OF FIRST MEETING

(Under the order for winding-up the above-named Company dated 17th day of May 2000)

NOTICE IS HEREBY GIVEN that the first meeting of contributories and creditors in the above matter will be held at the offices of KPMG Financial Advisory Services Limited, Crown House, 4 Par-la-Ville Road, Hamilton, Bermuda at 9:30 am (contributories) and 10:00 am (creditors) on the 22nd day of September, 2004.

Proxy forms to be used at the meeting have been mailed to all known contributories and creditors and must be lodged with the Provisional Liquidator at the offices of KPMG Financial Advisory Services Limited, Crown House, 4 Par-la-Ville Road, Hamilton, Bermuda by 5 pm Bermuda time on the 21st day of September, 2004.

Dated this 20th day of August, 2004.

Stephen Lowe
Official Receiver of Bermuda
PROVISIONAL LIQUIDATOR

HELP WANTED

TRUCK PRODUCER
Retail truckwriting agency seeking a MD/No. VA producer. Must be self-starting, motivated individual who is looking for the opportunity to build a long-term career. Minimum 2 years Sales/Insurance experience required. Exclusive territory. We offer top commissions, leads, benefits and unparalleled underwriting service & support. Call (800) 631-2254 or e-mail to Tina@bartproud.com

HELP WANTED

EXECUTIVE DIRECTOR POSITION
The Captive Insurance Companies Association (CICA) is a national association with international exposure in the insurance industry. It is a 501(c)(6) not-for-profit organization, seeking a dynamic leader to serve in the President/Executive Director's position, to manage a captive insurance association, which represents members in the United States and abroad.

CICA's mission...is an organization dedicated to networking, educating, and promoting the captive insurance industry and other insurance alternatives for companies interested in self-insurance.

The successful candidate will have a bachelor's degree (master's degree preferable) in business, financial services, administration, or related field and a minimum of five years of management experience. The candidate must have proven talent in creative and entrepreneurial thinking; demonstrated skills in program management, marketing, and member services; and confidence in public speaking. This person will lead CICA going forward with the three to five year strategic plan which has been approved by the board and will be rewarded for growing the benefits and building the membership of the organization.

Resumes must be received by 5 p.m. on Friday, September 10, 2004.

Send resume to: Search Committee, CICA, 189 Commerce Court, Cheshire, CT 06410

EEO Employer

e-mail iamleshi@BusinessInsurance.com

BI
Publishing September 6
Reinsurance: International Markets
*Bonus Distribution: IUMI; Monte Carlo Rendez-Vous*
*Ranking & Online Directory: Leading Reinsurers Worldwide*
Closing: August 31
Call (312) 649-5340 for advertising information

MORE CLASSIFIEDS ONLINE! www.businessinsurance.com

*To place your ad, contact* ***Irais Amleshi***
*at (312) 649-5340 / fax: (312) 649-7937*
*E-mail: iamleshi@BusinessInsurance.com*
***Business Insurance, Classified Department,***
***360 N. Michigan Ave., Chicago, IL 60601-3806.***
***Call for details on blind box and internet advertising***


# Managed care: Rate hikes slow

**Continued from page 4**

employers expect their group health care plan costs to rise by an average of 9.6% in 2005, which would be the first time since 2000 that the annual cost increase didn't reach double digits (see related story).

"I see premium rates increasing at a slower rate than they have in the past and at a slower rate than the medical cost trend will be increasing," Mr. Ward said. "I definitely see that trend through end of 2004."

A key factor behind the slowdown in rate increases is the moderation in medical costs in the last 12 months, analysts say. Such costs have been increasing by about 9% to 12% in 2004, compared with growth of 14% to 18% in the past, they say.

Consumer-driven health plans have played a role.

"A lot of (the moderation) is due to the fact that they're coming out with new products that give employers more choice," said Dana Mehta, assistant vp of the health division of Oldwick, N.J.-based A.M. Best Co.

Consumer-driven options will continue to increase, particularly as government regulations on these types of products continue to be released, she said. "We expect that these types of products will be the most dominant," Ms. Mehta said.

Employers will also scale back benefits to keep their health care costs at a certain percentage of their overall budget, said Stephen Zaharuk, vp and senior analyst for Moody's Investors Service in New York. "They are going to have to do some internal searching on what they can pay and what their employees can afford to pay," he said. "I think we're going to see smaller benefit packages."

## Some disappointments

Although most of the managed care companies reported strong increases in net income, Los Angeles-based Health Net Inc. reported that first-half profits fell 61.6%, to $56.4 million, from the same period a year earlier. Health Net's earnings were hit by a $64 million expense related to higher-than-expected health care costs for previous years that were recognized in the first quarter of 2004. This expense led the company to raise commercial premiums by about 2% to 4% for the rest of the year.

In addition, the company took a pretax charge of $17 million for severance and related benefits associated with a workforce reduction that began in the second quarter. The company laid off 500 employees to reflect a decline in enrollment of 3% compared with the prior-year period.

"Health Net is running into some problems," Mr. Zaharuk said. "It's something that can be fixed, but it takes time to fix it."

The problems in the company's California unit should be resolved relatively quickly because they were mainly related to the way the company paid claims, Ms. Mehta said. However, problems in its Northeast segment may take two to three years to resolve because Health Net faces stiff regional competition from Aetna Inc., Anthem Inc. and UnitedHealth Group Inc., she said.

"Things ought to be the best for employers in the Northeast, because that's where there is the greatest competition," Ms. Mehta said.

In fact, Health Net officials said they already have seen modest attrition of the company's membership base in the Northeast due to its decision to raise commercial premiums.

Most managed care companies showed slight to solid membership gains, but Philadelphia-based CIGNA Corp. reported a 17% drop in medical membership, which the company attributed to lower new business sales and lower retention of existing accounts.

CIGNA's declining membership is still an issue for the company because its cost-cutting measures and staff reductions may have affected customer service, Mr. Ward said. "That's the Achilles' heel of the organization," he said.

## Consolidation slowing

Most analysts expect to see a slowdown in the consolidation activity that has reshaped the managed care segment in recent years.

"Anything worth acquiring appears to have been acquired," Ms. Mehta said. "I may be wrong, but I don't anticipate any huge, high-profile (merger and acquisition) activity."

The key M&A issue to watch in the managed care industry is the uncertainty surrounding the proposed merger of Anthem and WellPoint Health Networks Inc., analysts say. Earlier this month, Indianapolis-based Anthem filed a lawsuit seeking to set aside California Insurance Commissioner John Garamendi's decision to deny Anthem's application to acquire control of WellPoint subsidiary BC Life & Health Insurance Co.

Several analysts say they expect the companies to complete the merger eventually, though Thousand Oaks, Calif.-based WellPoint may have to divest its BC Life & Health unit to do so if the companies cannot get a court to overturn Mr. Garamendi's decision.

"We do think it's likely they will be able to complete the merger, but we don't know when it's going to be," Ms. Mehta said.

Douglas Meyer, senior director at Fitch Ratings in Chicago, said he does not expect the proposed Anthem/WellPoint merger to be resolved this year. Until that is resolved, major M&A activity among the Blues plans, particularly the rumored Anthem/WellPoint acquisition of New York-based WellChoice Inc., appears to be on hold, he said. "The Blues are kind of tied up right now," Mr. Meyer said.

For now, WellChoice may attempt to consolidate with some of the smaller Blues plans in the region, he said. "WellChoice has been very vocal in terms of their interest in doing M&A," Mr. Meyer said.

Small deals aimed at improving a specific aspect of a health insurer's business might be the future trend, analysts say. "I don't think there would be any smaller deals announced that would be a headline grabber," Mr. Ward said.

Hartford, Conn.-based Aetna Inc. recently announced it is acquiring Strategic Resource Co., an administrator of group benefit products for part-time and hourly workers, for $250 million. "Aetna's turnaround is essentially complete," Mr. Meyer said of the once financially troubled health insurer. "They are interested in doing deals that make sense."

UnitedHealth Group is expected to continue to pursue strategic acquisitions to either expand into the small-employer market or to obtain a stronger presence in specific regions, such as its recently completed merger with Trumbull, Conn.-based Oxford Health Plans Inc. Although the company has the capability to pursue an acquisition on the scale of its Oxford deal, fewer targets of that size are available, Mr. Meyer noted.

# Mercer forecasts dip in hikes

Group health care plan cost increases next year may slip below double digits.

A survey of 916 employers by Mercer Human Resource Consulting in New York found that employers expect health plan costs to rise by 9.6% next year. That would be the smallest increase since 2000, when costs rose by an average of 8.1%.

Last year, cost increases averaged 10.1%. Final increase figures for 2004 are not yet available but are expected to be similar to those in 2003.

Employers with at least 20,000 employees expect cost increases to average 9.5% next year, while employers with between 10 and 49 employees expect costs to rise by an average of 10.4%.

The slowdown is the result of several factors, including employers shifting more costs to employees, adding cost-control programs and dropping their most expensive health care plans, Mercer said.

If surveyed employers had not made any plan changes, the average cost increase for 2005 would be 13%, a level that is unacceptable to most employers, Mercer noted.

Still, while health care inflation is easing, cost increases remain very high.

*—By Jerry Geisel*

BI 08-30-04 A 15 8/27/04 3:22 PM Page 1



## Property/casualty insurers' 2004 first-half results

Ranked by net income. All amounts are in thousands of dollars.

| | Corporate | | | Property/casualty operations | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Net income | Percent increase (decrease) 2003-2004 | Consolidated revenues 2004 | Combined ratio 2004[1] | Combined ratio 2003[1] | Net premiums written 2004 | Percent increase (decrease) 2003-2004 | Policyholder surplus 2004 | Percent increase (decrease) 2003-2004 |
| American International Group Inc. | $5,518,000 | 30.4% | $47,446,000 | 92.8%[2] | 92.7%[2] | $20,593,000[2] | 20.5% | N/A | N/A |
| Hartford Financial Services Group Inc. | 1,001,000 | N/M[3] | 11,176,000 | 90.6 | 96.3 | 4,950,000[2] | 12.7 | $5,900,000 | 0.0% |
| ACE Ltd. | 859,834 | 39.2 | 5,962,798 | 87.8 | 91.1 | 5,999,160 | 14.4 | 9,220,473 | 18.3 |
| Chubb Corp. | 716,800 | 50.4 | 6,384,200 | 92.7 | 95.3 | 5,947,000 | 12.4 | 7,000,000 | 19.7 |
| SAFECO Corp. | 483,700 | 139.6 | 3,054,100 | 87.6 | 99.6 | 2,829,700 | 12.2 | 3,245,100 | 23.5 |
| The St. Paul Travelers Cos. Inc. | 312,000 | (60.1) | 10,308,000 | 110.6 | 97.4 | 8,732,000 | 35.7 | 13,955,000 | 71.8 |
| Cincinnati Financial Corp. | 301,438 | 113.6 | 1,793,102 | 89.5 | 96.6 | 1,524,031 | 7.9 | 2,883,845 | 3.7 |
| Old Republic International | 225,429 | (0.2) | 1,689,528 | 91.0 | 94.0 | 833,709[2] | 15.3 | 1,882,431 | 4.7 |
| CNA Financial Corp. | 164,000 | 7.2 | 4,930,000 | 107.4[2] | 121.3[2] | 3,690,000[2] | 2.8 | 6,640,000 | (5.0) |
| American Financial Group | 129,100 | 132.2 | 1,775,700 | 94.1 | 101.4 | 1,129,500 | 10.1 | 1,944,300 | 35.8 |
| Ohio Casualty Corp. | 51,900 | 68.0 | 834,300 | 99.5[2] | 107.5[2] | 750,700[2] | 3.1 | 899,000 | 14.9 |
| Argonaut Group Inc. | 36,200 | (32.1) | 343,200 | 97.3 | 107.2 | 309,000 | 11.3 | 555,600 | 29.4 |
| RLI Corp. | 35,311 | 18.4 | 282,774 | 91.1 | 92.3 | 261,567 | 15.9 | 569,682 | 4.9 |
| Liberty Mutual Insurance Co.[2] | N/A | N/A | N/A | 103.4 | 103.7 | 6,818,000 | 9.2 | 7,829,000 | 41.4 |
| Cumulative | $9,834,712 | 61.0% | $95,979,702 | 96.3% | 97.6% | $64,367,367 | 16.7% | $62,524,431 | 24.5% |

1. Includes dividends. 2. Statutory. 3. Comparison not meaningful due to 2003 loss. N/A Company did not provide data.
Source: *BI* Survey

# Results: A strong showing even as rates start to soften

Continued from page 4

times continue," Mr. Ward said.

Observers disagree as to how close the industry is to a soft market, though. "The soft market is here, despite what some companies are saying," said Chris Winans, senior property/casualty analyst with Lehman Bros. in New York.

"There's a growing consensus that there's still good earnings to come in the commercial insurance business, but the pricing environment has definitely turned more competitive, and so the question is, at what point will underwriting discipline start to deteriorate rapidly and, following that, at what point will we start to see the deterioration showing up in earnings," Mr. Winans said.

At midyear renewals, rates were generally moderating or even decreasing across most property and casualty lines. Unlike in recent years, buyers facing double-digit percentage rate increases were relatively few (*BI,* July 5).

Mr. Winans said the market is turning competitive more quickly than he had expected at the beginning of the year. "I thought the commercial insurers were going to be more disciplined than they are proving to be at this point of the year," he said.

Mr. Winans said he is concerned not only about rates no longer increasing but terms and conditions loosening as well.

There are questions regarding "how sustainable the premium rating environment is, " said Devin Inskeep, senior financial analyst at Oldwick, N.J.-based A.M. Best Co. "For the most part, insurers are still toeing the line. We haven't seen too much evidence of anything irrational." Still, "competition has emerged, not wholeheartedly, but there's rumblings of it," said Mr. Inskeep. "We're getting mixed signals."

"I don't believe we're at the point where we believe rate adequacy is an issue for the industry," said Moody's Mr. Berg, though. The industry is "on the downward side of the slope. We're not at the bottom."

John Iten, a director at Standard & Poor's Corp. in New York, said, "In general, we believe that margins are still quite good, even on the lines where the rate decreases have occurred, so we're not really calling this a soft market, not at this point."

Mr. Iten added, "We do think that rates will continue to ameliorate, and we do think that at some point in the not-too-distant future, margins will stop expanding," with loss costs reaching as high or higher than the rate increases insurers are getting. This could occur during the next January renewal season, he said, "but, even so, we're still expecting 2005 underwriting results to be very strong."

Mr. Ward said: "There's no question that the rates are starting to decelerate somewhat. Some would say we're in the start of a soft market. I don't think we're at that point yet, but it is clear that rate increases are slowing considerably, particularly in the property lines."

Nonetheless, the strong players "will continue to be pushing rate increases through, and that will tend to offset the isolated drops in rates you might see in some segments," said Mr. Ward.

Analysts note that investors are already anticipating a soft market, as evidenced by a down market for insurer stocks. According to South San Francisco, Calif.-based FinancialContent Inc., the stocks of 68 insurers and reinsurers in the *Business Insurance* Index dropped an average of 6.2% on a market capitalization weighted basis for the six months ended Aug. 24, compared with a 3.8% drop for the Standard & Poor's 500 index during the same period.

"Even though the earnings were very good, investors seemed to be looking forward" and saw a slowdown in rate increases, which usually signals narrowing underwriting margins, said Gary Ransom, a managing director at Fox-Pitt Kelton Inc. in Hartford, Conn. The strong earnings performance, in tandem with the very weak stock performance, "reminds you of that old saying, 'The operation was a success, but the patient died,'" said Mr. Ransom.

More immediately, though, results should continue to be strong over the short term. "I think the outlook is more of the same," said Todd Bault, a research analyst at Sanford Bernstein & Co. in New York. "Premium growth will not be as strong this year at all as it was last year, but results will be much better because the books of business are much better priced."

Mr. Gallant agreed. Despite "a little bump" from Hurricane Charley and the risk of more hurricanes, "we expect more of the same. I would expect combined ratios for the industry to be very good for the second half of the year and into '05," with good book value growth, he said.

Hurricane Charley is unlikely to have a significant impact on results, say observers. "It will be noticeable, but not from a quarterly earnings standpoint," and its impact will be relatively mild compared to 1992's Hurricane Andrew, said Mr. Bault. "I don't see a new property hard market developing because of Charley," but it could cause a temporary stop in rate declines in that segment, he said.

Reserves remain a concern, though, say some observers. "We think there's going to be some adverse development," which historically has been concentrated in the third and fourth quarters of the year, said Mark Rouck, a senior director at Fitch Ratings in Chicago. "We think the reserves are still short and could impact earnings" in the next two quarters, he said.

Mr. Gallant said, though, that, "with a few exceptions, we feel like things are getting better, in part because the 2004, 2003 accident years were probably overreserved" and will offset any prior-period deficiencies.

## Oct. 18 directories to feature safety consult, rehab services

*Business Insurance* will publish its online directories of safety consultants and rehabilitation service providers in conjunction with the Oct. 18 issue. The issue will feature a Spotlight report on workers compensation and disability management, as well as rankings of the largest independent safety consultants and rehabilitation service providers.

The online directories will be available to subscribers on *www.businessinsurance.com* and will be included in *BI*'s 2004/2005 Market Sourcebook, a special printed compilation of all of *BI*'s directories and rankings that will be published in December.

The directories are published as an editorial service, and there is no charge to be included. To be listed in the safety consultants directory, companies must provide unbundled safety consulting services directly to corporate or institutional clients.

To be listed in the directory of rehabilitation service providers, a company must provide unbundled rehabilitation management services directly to employers for workers compensation or liability cases.

To qualify for listing in the directories, companies must generate $200,000 or more in revenues from these services and disclose their total gross revenues.

If your company meets the requirements and has not received a questionnaire, please request one immediately by calling Directory Editor Kevin P. Edison at 312-649-5279. Copies of the questionnaires also can be printed from *www.businessinsurance.com.*

Completed questionnaires must be submitted by the extended deadline of Sept. 17.

BI 08-30-04 A 16 8/27/04 3:23 PM Page 1



# **Charley:** Insured loss ranks as second-worst hurricane

**Continued from page 3**

businesses that provide hospitality services, he said, but those losses will be spotty.

Charley began its destructive march across Florida on Aug. 13, a Category 4 storm that battered communities along the southwestern coast before sweeping across the state, pounding the Orlando area and then communities along the Atlantic coast. The most severe damage was in Charlotte and Lee counties, where the storm came ashore.

Last week, business owners and homeowners across the state were working to repair or salvage what property they could while insurance adjusters continued working long hours to determine the size of the checks to be written by insurers.

Some insurers will record significant losses from Charley.

Florida's state-run insurer of last resort, Citizens Property Insurance Corp., estimates its wind coverage losses will amount to $1.2 billion, and other mulitperil losses will reach $75 million.

Citizens, which will bear most of the windstorm loss, was formed by the Florida Legislature after the private market for windstorm coverage tightened severely as private insurers, in the wake of Andrew losses, withdrew from the line.

The state's largest personal lines insurers were still tallying losses last week.

Nationwide Mutual Insurance Co. in Columbus, Ohio, said it expects to receive more than 50,000 claims approaching $400 million in losses.

State Farm Mutual Automobile Insurance Co. of Bloomington, Ill., as of last week had recorded 14,037 automobile claims and 66,528 homeowners claims. The insurer had not released a dollar amount for those claims.

Allstate Corp. of Northbrook, Ill., had no claims information as of last week.

Insurers' losses will be tempered somewhat by the Florida Hurricane Catastrophe Fund, which was established after Hurricane Andrew. Residential insurers must participate in the fund, which provides reimbursements for their hurricane losses up to certain limits.

Many insurers and reinsurers released estimates of their insured loss exposure (see chart, next page).

The recovery effort and damage assessments remained difficult last

**See CHARLEY/next page**

# **Clinics:** Retail clinics offer savings and convenience

**Continued from page 1**

MinuteClinic, considerably less than is charged by many doctors and medical facilities, experts note.

Prices are kept low by the operations' low overhead and limited scope of services, explained Tom Charland, senior vp of MinuteClinic in Minneapolis.

Each facility, which takes up less than 140 square feet, is staffed by a single nurse practitioner at a time, who acts as receptionist, office manager, medical provider and billing clerk, Mr. Charland explained. A medical doctor specializing in family practice is available on call to the nurses, who are fully licensed and credentialed.

## A lower-cost alternative

"Aggressively shifting employees to less-expensive, nonhospital service settings for many outpatient procedures will be a top priority for employers in 2005 and represents an employer's greatest tool in battling rising hospital costs," said Jack Scanlon, senior vp of research in Sacramento, Calif., for First Health Corp., a Downers Grove, Ill.-based preferred provider organization.

Mr. Scanlon, a health care economist, is promoting the use of alternative medical delivery settings among his employer clients.

Mr. Scanlon added that his research shows that using nonhospital facilities for medical care—including health care kiosks, urgent care centers and ambulatory surgery and radiology centers—can reduce the cost of outpatient care by about 20%.

"We've looked at MinuteClinic's data for a large client of ours who was considering whether to cover them," said Bruce Kelley, a senior consultant at Watson Wyatt Worldwide in Minneapolis. "On average, the clinics tend to charge about $40 a visit. It varies by $5 or so, depending on the condition. On average, our client was paying about $50, and that was just the visit charge, then you also have ancillaries, lab tests and the occasional prescription, which was another $20, vs. $10 to $12, on average, in MinuteClinics."

"We're always looking for high-quality, cost-effective alternatives, and we believe this is one," said Raymond Brusca, vp of benefits at Towson, Md.-based manufacturer Black & Decker Corp., which entered into a direct contract with MinuteClinic earlier this month.

Mr. Brusca said he compared the fees charged by MinuteClinic for certain procedures against those charged by other providers and found them to be about 20% less than the in-network negotiated reimbursement rates.

Mr. Brusca said he was also attracted by the convenience factor.

"Right now, if I've got a nagging sinus infection, by the time I get the appointment, leave here to drive to the doctor's office, sit around, wait for the appointment, then drive someplace else to get the prescription, come back to work, I've missed three hours," Mr. Brusca said.

"With this, I can leave here, go next door to Target and get back in half an hour with prescription in hand. It's a convenience and productivity issue," he said, noting that the newest MinuteClinic is in a Target store only about a block from Black & Decker's headquarters.

"I think this is competition. This is what the health market needs, in that they're taking away a cheap part of the service and providing it cheaper," said Michelle Murray, manager of benefits at the Carlson Cos. in Minneapolis, a global hotel, restaurant, business and leisure travel marketing company.

> **'With (MinuteClinic), I can leave here, go next door to Target and get back in half an hour with prescription in hand. It's a convenience and productivity issue.'**
>
> *Raymond Brusca*
> *Black & Decker Corp.*

Carlson opened a MinuteClinic on its corporate campus April 1, and it is accessible to all of its 3,000 employees as well as anyone else who walks in off the street. Carlson employees who use MinuteClinic have a reduced copayment—$5 vs. $15 for a normal office visit.

Ms. Murray said she knows from her analysis that her company has achieved significant savings but said she is not yet ready to share the information publicly.

Elaine Buddington, manager of employee services at Guidant in Arden Hills, Minn., where MinuteClinic opened an office last November, said the company didn't offer financial incentives but still managed to attract numerous employees.

"As of the end of July, we've had a little more than 1,000 visits, 80% at the onsite center and the rest at the retail MinuteClinics," she said, noting that she has gotten "feedback from employees about how much they like having MinuteClinic here."

But while MinuteClinic has easily won the endorsement of employers, it is taking a while for them to get the support of insurers that administer group health care coverage in the Baltimore market, which is the primary reason Black & Decker decided to contract directly with the company, Mr. Brusca explained.

"CIGNA's being stubborn," he said. "The medical director was concerned about the clinical aspects. CIGNA was also concerned about the other doctors' reactions."

A spokesman for CIGNA said the insurer "does support urgent care" and has contracted with MinuteClinic for Guidant in Minnesota and is in discussions with other clients. He explained that the insurer is approaching the concept conservatively because it wants to make sure such kiosks don't become a substitute for primary care physicians or encourage people to seek unnecessary care.

But insurers in MinuteClinic's home state of Minnesota have been more receptive. The clinics are included in the health maintenance organization and PPO networks of several insurers there, including Blue Cross & Blue Shield of Minnesota, which has become a staunch supporter.

After examining the MinuteClinic approach, "We concluded that it definitely is replacement care and that we're saving a considerable amount of money," said MaryAnn Stump, vp of strategic innovation at the Blues plan in Minneapolis.

## Physician resistance

Not surprisingly, there has been some grumbling in the provider community.

"We meet a fair amount of resistance from medical groups," said Stuart Lowenthal, managing partner and principal of FastCare. "This is usually because they either don't understand the concept or they don't use nurse practitioners as primary caregivers."

The challenge is to "get the public to understand what a nurse practitioner does and that their professional service is good enough to treat these dozen to two dozen common family illnesses," he said.

"There's no question that they serve a unique role in our fast-paced society….But, MinuteClinics are not and they can't be a patient's medical home. We believe that coordinating all care is important to a patient's overall health, and whether MinuteClinics fragment care is the question and concern that several physicians have been asking," said Janet Silversmith, director of health economics and policy at the Minnesota Medical Assn. in Minneapolis.

Ms. Stump of Blue Cross suggested, though, that concerns about fragmentation may be overstated.

"One of the things that MinuteClinic does is that they will send on documentation of the encounter to the family doctor," Ms. Stump said. "The other thing is, somebody can't keep going there." The guidelines are tight, she explained, so that if, for example, a patient has a recurring bladder infection, he or she is referred to a physician for diagnosis and treatment.

The emergence of companies such as MinuteClinic and FastCare could stimulate the kind of competition necessary to promote the consumerism movement in health care, according to Bob Tobey, vp-office manager at Aon Consulting in Minneapolis.

"I think we're on the verge of starting to look at not only appropriate but also creative and better ways in which we can deliver care and serve the needs of people in an affordable manner," Ms. Stump predicted.

"It's all about right time, right place, right price," said Carolyn Pare, executive director of the Buyers Health Care Action Group, a Minneapolis-based employer coalition. "And the kinds of things that MinuteClinic does is just right for going in and getting quick care and getting out."

"One of the symptoms of a true disruptive innovation is that those who are proponents of the status quo have lots of concerns about it but consumers love it," Ms. Stump said. "This is open 8 to 8, seven days a week, wonderful parking, no waiting. It's a dream for consumers."

PHOTO: MINUTECLINIC FILE PHOTO

**The prices for medical services are usually posted on the wall at the health care kiosks that Minneapolis-based MinuteClinic and Louisville, Ky.-based FastCare operate inside retail and grocery stores.**

# Charley: Second-worst losses

Continued from page 16

week because electricity was still out in some areas of the state struck by the hurricane.

"There's still a lot of power out down here," Jim Mero, Orlando-based assistant vp/general manager for GAB Robins North America, said last week.

Florida Power & Light said it expected to have the lights back on by Aug. 29 for 874,000 homes and businesses across the state that lost power in the storm. Around 30,000 customers statewide were still waiting for electricity as of late last week.

As the cleanup has continued, the scope of the damage has come into sharper focus.

"We're seeing a lot of the larger losses starting to come in," said Mr. Mero. GAB is handling claims for a chain of convenience stores that had 115 locations damaged, with 20 of the stores severely damaged. The adjuster also is working on claims from several automobile dealerships that were hit, but "most are open for business," he said.

Several of the large losses will exceed $2 million, Mr. Mero said.

It could take two more months for GAB to finish its property claims work in Florida, he added, while work on business interruption losses and salvage values "could run six more months" as those claims develop.

Utility companies in Florida were among commercial policyholders with significant losses from Charley.

The Orlando Utilities Commission, a public power company that provides electricity for customers in Orlando and other areas, suffered $32.5 million in damages from broken utility poles, downed power lines and other property damage, a spokeswoman said.

While the misery continued for many property owners last week, others were relieved that the damage wasn't worse.

The storm's track was "extremely tragic for those in harm's way," said Lucy Petruccelli, risk manager for the Southwest Florida Water Management Authority in Brooksville, Fla. But if Charley had followed the path it was originally predicted to take, the destruction could have been much worse, she said.

"I wouldn't go so far as to say it saved the economy of Florida," she said of the storm's last minute jog away from the Tampa Bay area, but if Charley had not strayed, "it would have been a totally different story."

Michael McNabb, risk manager for the City of Tampa, said city-owned property was spared by the hurricane's capriciousness. "We had not one dollar of damage," he said.

Ms. Petruccelli's agency, which has locations in four counties and serves 16 counties, also survived the storm in pretty good shape, she said. "I would say our losses are going to be under $200,000," which included damage to two trailers leased by the water authority.

Ms. Petruccelli said that the water authority has $40 million of property coverage with a primary layer of $5 million written by Landmark American Insurance Co., a surplus lines subsidiary of Royal & SunAlliance Group P.L.C. The agency's windstorm deductible is 2% of the value of each covered property.

The agency suffered another loss, one perpetrated by "desperate people in desperate times," Ms. Petruccelli said.

Two trucks were stolen from an operations center, but were later recovered. Not recovered were items that included a generator, two all-terrain vehicles and an airboat on a trailer. The unrecovered items were valued at around $50,000, she said.

## INSURERS REPORT CHARLEY EXPOSURE

Insurer and reinsurer preliminary estimates of net losses for claims from Hurricane Charley do not yet include dollar estimates from two of the state's largest personal lines insurers—State Farm Group and Allstate.

| Company | estimated loss (in millions) | Company | estimated loss (in millions) |
|---|---|---|---|
| Citizens Property Insurance | $1,280 | White Mountains | $45 |
| Nationwide Mutual | $400 | Arch | $44 * |
| Swiss Re | $200 | Chubb | $40 * |
| Zurich Financial Services | $150 | Everest Re | $40 |
| Renaissance Re | $140 * | Fairfax Financial | $40 * |
| XL | $125 | Platinum Underwriting | $35 * |
| ACE | $100 * | Allmerica | $30 |
| AIG | $100 * | Cincinnati Financial | $25 |
| AXIS Capital | $80 * | Odyssey Re | $20 |
| Montpelier Re | $63 * | PXRE | $18 * |
| CNA | $60 * | Quanta Capital | $18 * |
| Aspen | $50 * | Alea Group | $10 * |
| Endurance Specialty | $48 * | HCC Insurance | $10 |
| IPC Re | $45 * | Max Re | $9 * |
| PartnerRe | $45 * | Ohio Casualty | $8 * |
| SAFECO | $45 | Goshawk Insurance | $7 * |
| | | W.R. Berkley | $5 |
| | | RLI | $4 * |

* Estimated maximum loss
Source: Company reports

Corporate governance rules debated in Canada / 3
Calif. druggists threaten to shun comp scripts / 4
Business Insurance
Tort, benefits changes on the agenda
Late News
Insurer, agency trade charges
Mandates targeted to ease health crisis
GLOBAL BENEFIT TRENDS
GLOBAL BENEFIT NETWORKS

# Are you making the most of your editorial coverage?

Editorial coverage is like money in the bank...when you take advantage of it. RMS can help you capitalize on your exposure and get the most impact out of your coverage in *Business Insurance* and *Industry Focus* through cost effective, mass distribution of Reprints, Eprints and NXTprints.

**The uses for Reprints, Eprints, and NXTprints are endless:**

**Trade Show Collateral • Seminars • eNewsletters • Media Kits**
**Web Content • Direct Mail • PR Tools • Recruiting • Sales Handouts**

**For more information call RMS:**
**800.290.5460 - Ext. 100**
**or e-mail: BusinessInsurance@reprintbuyer.com**

RMS
REPRINT MANAGEMENT SERVICES

www.reprintbuyer.com

BI 08-30-04 A 1,18 8/27/04 3:26 PM Page 2



# RNC: Risk plans in place

Continued from page 1

The Republican National Convention, which federal officials have designated a National Special Security Event, is scheduled to run today through Thursday. New York budgeted $76 million for convention-related security measures, though the federal government would cover $50 million of that.

Neither the Republican National Committee nor New York City officials would discuss the convention's property and casualty insurance arrangements. The convention's broker of record, Marsh Inc., was similarly tight-lipped.

Security measures during the convention week that are expected to have the greatest impact on New York businesses include closing streets within a half-mile radius of the Garden at various times and limiting commercial deliveries within that area to specified times.

Commuter trains will be stopped for security inspections before arriving at Penn Station, which is located across the street from the Garden. At the station, commuters will be funneled in and out of a limited number of station doors.

While New York Mayor Michael R. Bloomberg has said that most businesses will not be inconvenienced by the security measures, the Beacon Hill Institute at Suffolk University in Boston asserted that the measures ultimately will cost the city $19.1 million in lost productivity.

Most risk managers at organizations located near the Garden would not discuss how they have prepared for the terrorism, civil disobedience and business interruption risks associated with the convention.

But Sheila Small, assistant treasurer-risk management and insurance at New York-based communications giant Verizon Communications Inc., observed: "New York has been on a high alert all along. We've really beefed up our security measures since 9/11."

Brokers agreed, noting that risk managers who have addressed their risks by purchasing terrorism insurance or additional business interruption coverage for the most part did so long ago and not because of this week's political convention.

Kathryn Wylde, president and chief executive officer of the Partnership for New York City, a network of top-ranking executives at nearly 400 large New York-based companies, said that she had not heard of any group members purchasing insurance in anticipation of the convention.

Throughout the Northeast region of the country, though, the number of companies buying terrorism insurance rose slightly in the second quarter of 2004, as rates for the terrorism coverage stabilized, according to a Marsh survey (see story, page 3).

Although risk managers in New York generally are not buying additional insurance, "they're all reading their policies closely and making sure everyone is on the same page" regarding their understanding of loss triggers, observed Chris Rogers, the Los Angeles-based director of risk control in the national entertainment practice at Aon Corp.

Mr. Rogers noted that risk managers want to avoid the kind of coverage dispute that erupted over the loss of the World Trade Center, when the owner and its insurers disagreed over whether the towers were destroyed in one or two events.

To protect their property, businesses are taking a variety of steps.

"The planning has been going on for months," said Ms. Wylde of the Partnership. Group members have been working with the FBI and New York police since January to ensure security and prepare for protestors, she said.

Those businesses either hosting a convention-related event or located nearby are conducting terrorism vulnerability assessments and making themselves less attractive targets by adding security cameras, uniformed security personnel and building perimeter barriers, Aon's Mr. Rogers said.

PHOTO: GETTY IMAGES

U.S. Coast Guard guard boats on the Hudson River, as part of a demonstration of security for the Republican National Convention.

As for keeping business going in the areas affected most by convention security measures, "most people are looking at this as they would a transit strike: It's a big inconvenience that they have to work around," said Damian Testa, president of Kaye Insurance Associates in New York, a unit of Kaye Group Inc. Kaye Group is a unit of Chicago-based Hub International Ltd.

But, just like they did on the risk financing side, risk managers who considered their organizations at risk to business interruption implemented measures shortly after the 2001 terrorist attacks to minimize such losses, said Peter DeVito, executive vp for Arthur J. Gallagher & Co. of New York Inc.

Many companies now have "cold and hot sites" for their computer operations so they can easily switch those operations to a location outside of Manhattan in the event of another disaster, Kaye's Mr. Testa noted.

"We know of at least half a dozen firms that are moving their businesses outside of New York for that week," said Al Berman, a business continuity planning expert with Marsh's Risk Consulting Practice.

# Regulation: Congress discussing regulatory overhaul

Continued from page 1

Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. The more than 300-page draft reflects a joint effort with Rep. Mike Oxley, R-Ohio, chairman of the House Financial Services Committee, which oversees that subcommittee's activities. Rep. Oxley unveiled some of the concepts earlier this year (*BI*, March 22).

At its core, the draft would affirm the 1945 McCarran-Ferguson Act, which gave states the authority to regulate insurance, unless federal law spells out a pre-emption.

The draft recommends two major changes, however:

- First, it proposes that, for the first time, federal authorities would explicitly pre-empt state rating laws for commercial and personal lines coverages to create "nationwide competitive insurance pricing."

Two years after enactment, the draft proposes deregulation of rates for nearly all commercial lines risks, excluding primarily medical malpractice liability coverage. The draft also recommends a "flex band" approach to deregulate rates for most personal lines coverages over a two-year period. Insurers could increase or decrease rates without regulatory approval by 7% in the first year and by 12% in the second.

The draft also leaves the door open for Congress to pre-empt other industry-related activities if the National Assn. of Insurance Commissioners and its member states fail to adopt essential model laws in the future, said Julie Gackenbach, the Washington-based assistant vp of federal government relations for the Property Casualty Insurers Assn. of America.

- Second, the draft proposes the creation of a seven-member group—the "state-national insurance coordination partnership"—that would have narrowly defined powers and resources to assess whether uniformity requirements have been met, to resolve conflicts and to facilitate coordination. The group would lack "any regulatory or supervisory authority," the draft says. Members would be required to report their findings to Congress.

New York Insurance Superintendent Gregory V. Serio, who was speaking as a representative of the NAIC, described those two changes as the draft's "most contentious" elements. Regulators "are very pleased" that they had "not only a seat but a voice at the table," he said. But the NAIC is concerned that the group "will morph into a regulatory body," Mr. Serio said.

The draft's 17 sections also address a wide range of other insurance regulation issues, including surplus lines, reinsurance, life insurance and viatical settlements. There also are provisions that would apply to market conduct, insurer and producer licensing, antifraud activities, financial surveillance and receiverships, among other topics.

The New York-based Risk & Insurance Management Society Inc. "strongly believes that (the draft) is an important measure," said Janice Ochenkowski, vp-external affairs. Deregulation of rates "will result in a more competitive marketplace for commercial lines of insurance," she said.

"This document addresses some of the problems that commercial policyholders experience under the current regulatory system," including promoting uniformity among state insurance laws and addressing problems related to multistate risks, said Ms. Ochenkowski, who is a senior vp at Jones Lang LaSalle Inc. in Chicago.

> **'This document addresses some of the problems that commercial policyholders experience under the current regulatory system.'**
>
> *Janice Ochenkowski*
> *Risk & Insurance Management Society Inc.*

In addition, representatives of RIMS, the NAIC and the National Assn. of Professional Surplus Lines Offices all said they were pleased that drafters attempted to tackle the difficult issue of establishing a uniform system for allocating surplus lines premium taxes.

That is "one of the most vexing problems for brokers," said Richard Bouhan, executive director of Kansas City, Mo.-based NAPSLO. Currently, state laws vary about who should pay those taxes and when. For example, some states don't allow an out-of-state broker to pay the taxes, he said. There also is no standard allocation formula that determines an individual state's share of a multistate risk.

The draft essentially proposes that taxes be paid only to the home state of the policyholder, be allocated among states in accordance with a formula and procedure and be processed through a uniform and centralized national electronic system, according to the 20-page section devoted to that topic.

"From an agent/broker standpoint," the proposed changes "would be tremendous reforms" that would encourage nationwide uniformity rather than limited reciprocity, said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers.

In addition, several groups also have identified areas of concern.

RIMS, NAPSLO and the PCI are among those concerned about confusing or yet-to-be-determined criteria for large or sophisticated commercial policyholders that could be eligible for special exemptions from some state regulation.

In addition, spokespeople for RIMS and the American Council of Life Insurers are concerned about the federal-state partnership's lack of regulatory authority.

"The key to this (act) working is have an enforcement authority that will resolve conflicts among states," said Ms. Ochenkowski.

While the partnership document was drafted "to keep the furor down...I don't think it is feasible or reasonable," said Gary Hughes, senior vp and general counsel of the ACLI.

While the ACLI and American Insurance Assn. still prefer the concept of an optional federal charter for insurers, representatives of the two trade groups plan to participate in discussions about the draft proposal, which drafters may have in bill form this fall.

To provide comments on the draft, call the House Financial Services Committee at 202-225-7502.

## ADVERTISER INDEX

### Issue of August 30


| ADVERTISER | PAGE # |
|---|---|
| Aetna Corporate | T2, T5, T7 |
| AIG | 20 |
| American Institute for CPCU | 12 |
| Aon Corporation | 2 |
| Benesight | 11 |
| Burnham Systems | 12 |
| Business Insurance | 9, 17, T15, T16 |
| Carvill | 19 |
| Chubb | 7 |
| Fidelity Investments | T11 |
| Hewitt Associates | T12 |
| International Foundation | T13 |
| Marsh, Berry & Company | T8/T9 |
| MetLife | 5 |
| Olympic Health Management | T14 |
| WLT Software of Florida, Inc. | 12 |

BI 08-30-04 A 19 8/27/04 4:41 PM Page 1



# Late News

Continued from page 1

## Garamendi asks court to back merger denial

California Insurance Commissioner John Garamendi petitioned a state court judge Wednesday to affirm his rejection of the proposed merger of Anthem Inc. and WellPoint Health Networks Inc. The filing came in response to an Aug. 3 Anthem lawsuit that seeks to set aside his decision to deny Indianapolis-based Anthem's bid to acquire Thousand Oaks, Calif.-based WellPoint's BC Life & Health Insurance Co. unit. A hearing on Anthem's suit is scheduled for Oct. 5.

Mr. Garamendi

## Premera appeals denial of for-profit conversion

Mountlake Terrace, Wash.-based Premera Blue Cross has appealed the Alaska insurance commissioner's rejection of its application to convert to a for-profit company. Insurance Director Linda Hall denied the conversion proposal last month, saying it would "very likely" result in increased rates without improving service or expanding benefits. But she also outlined changes Premera could make, including assurances that it would not pass on costs of the conversion to policyholders. Premera said it will discuss those changes but appealed to preserve its rights if an agreement with the Alaska Division of Insurance cannot be reached. Earlier this month, Premera appealed the Washington state insurance commissioner's rejection of its conversion application.

## Employers addressing identity theft risk

Most employers are taking steps to protect employees against identity theft, an online survey by the Society for Human Resource Management has found. The most prevalent approach is to lock up employee files and limit access to them, cited by 95% of the 419 randomly selected human resources professionals surveyed. In addition, 54% have policies safeguarding employee data, while 49% conduct background checks on workers who have access to employee files. Among other steps cited: 24% said they educate employees on fraud prevention; 21% said their organizations have policies on what to do in the event employee information is compromised; and 2% said they contract with outside firms that help employees who are victims of identity theft.

## CGL insurer must defend contamination case

The alleged contamination of water systems stemming from a faulty product can trigger a duty to defend under a commercial general liability policy, California's 2nd District Court of Appeal ruled. In the case, Zurich American Insurance Co. refused to defend and indemnify Watts Industries Inc. against allegations that it sold substandard parts to about 30 municipalities, resulting in lead contamination in their water systems. After the municipalities sued, Zurich declined to defend or indemnify Watts under CGL policies sold to Watts from 1991 to 1997. The insurer concluded the underlying suit alleged damages that were purely economic and not due to bodily injury or property damage, as defined in its policies, according to court filings. Watts sued Zurich American in 2001 for bad faith, and a trial court ordered the insurer to pay for Watts' defense. The appeals court upheld that decision last week.

## Home Depot settles EEOC charges

Home Depot U.S.A. Inc. has agreed to pay $5.5 million to settle a discrimination and retaliation lawsuit brought on behalf of current and former employees in its Colorado stores. The Atlanta-based home improvement giant denies any wrongdoing but agreed to settle with the federal Equal Employment Opportunity Commission to avoid protracted litigation. According to the complaint, female and minority employees were subjected to offensive comments and conduct, passed over for promotions, paid lower wages and disciplined more harshly than other workers. In addition to the monetary relief, Home Depot agreed to provide anti-discrimination training and to appoint an equal employment opportunity coordinator.

PHOTO: GETTY

## Briefly noted

Raymond I. Skilling, the former chief counsel and current senior adviser to Aon Corp., has been named the new chairman of the **RAND Corp.'s Institute for Civil Justice.** The 25-year-old Santa Monica, Calif.-based Institute for Civil Justice provides government and private decision-makers with analytical research on the civil justice system....Atlanta-based **Crawford & Co.** has named Thomas W. Crawford as chief executive officer, effective Sept. 1, succeeding Marshall Long. Mr. Crawford, who is not related to the Crawford family that founded the claims management services company, previously was president of the retail distribution division of the Prudential Insurance Co. of America. Mr. Long assumed the CEO position on an interim basis in April, following Grover L. Davis' resignation as chairman and CEO ....Blue Cross & Blue Shield of Minnesota said **premium rate increases** for its small-employer clients will fall to between 7% to 8%—from 13%—for renewals beginning in October. The Blues plan attributed the drop to the introduction of health savings accounts, a disease management program that has reduced emergency room visits and hospital stays for people with chronic conditions, and increased generic drug usage.

**Check out BusinessInsurance.com**

Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com.* Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.

## Online Poll

[8/23-8/27]

**Will Hurricane Charley stop the recent softening in commercial property insurance rates?**

## *BI* Stock Index

[ 8/23 - 8/29 ]

**Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com.***

**Percentage change of *BI* Stock Index vs. key indicators**

| Index | Value | Change |
|---|---|---|
| *BI* Stock Index | 2229.27 | 0.46 |
| Dow Jones | 10195.00 | 0.84 |
| S&P 500 | 1107.77 | 0.86 |

**Largest gains**

| Company | Change |
|---|---|
| Vesta Insurance Co. | 6.49% |
| NYMagic Inc. | 4.97% |
| SCOR | 4.38% |
| Health Net Inc. | 4.18% |
| Harleysville Group | 3.88% |

**Largest losses**

| Company | Change |
|---|---|
| Gainsco Inc. | -4.29% |
| Fairfax Financial Holdings | -3.90% |
| IPC Holdings Inc. | -3.59% |
| ACE Ltd. | -3.57% |
| RenaissanceRe Holdings | -3.41% |

**Weekly change by market segment**

| Segment | Change |
|---|---|
| Brokers | 0.79% |
| Insurers/Reinsurers | 0.99% |
| Managed Care Organizations | 0.86% |

Source: FinancialContent Inc. (http://financialcontent.com)

# Terrorism: Large risks more likely to buy

Continued from page 3

By contrast, only 44.2% of companies with more than $1 billion in values bought the coverage in the second quarter, down from 63.0% in the previous quarter. Marsh cautioned that it could not easily attribute the differences to one factor but noted that median premium rates fell for the $500 million to $1 billion group between quarters while rates for the larger-value group rose.

Energy companies were the least likely to buy terrorism insurance, with 17.9% opting for the cover in the second quarter. Public entities and real estate companies, on the other hand, were the biggest buyers, with 70.0% and 69.2%, respectively, opting for the cover, Marsh found.

Companies located in the Northeast were the most-frequent buyers by region, with 59.7% purchasing coverage in the second quarter. Midwestern companies followed, with 57.9% taking the coverage, while 37.8% of companies in the West buying coverage and 28.2% of those in the South.

Overall property insurance pricing is falling faster than terrorism coverage pricing, meaning that terrorism coverage now represents a larger portion of total property premiums, especially for those companies increasing terrorism limits, the Marsh survey notes.

Median terrorism rates fell slightly in the second quarter, to 0.0076% of total insured values from 0.0080% in the first quarter, Marsh found. While rates in 2004 are up from the levels of the third and fourth quarters of 2003, they are almost unchanged from the 0.0078% median rate in the second quarter of 2003.

Construction companies are paying the highest rates, a median 0.0303% in the second quarter, while health care and education companies are paying the lowest rate, 0.0036%, the survey found.

*Copies of the survey are available by contacting Marsh offices, a directory of which is available at www.marsh.com.*

Carvill
REINSURANCE INTERMEDIARY
Independence • Integrity • Service
Leadership in Specialty
Atlanta Bermuda Chicago London Los Angeles Norwalk 1-800-CARVILL www.carvill.com

BI 08-30-04 B 1 8/25/04 3:48 PM Page 1

Business Insurance

Special Take-Out Section

# Benefits Management

August 30, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.

# Retiree Benefits

## Employers facing challenges in helping workers build security

## Largest 401(k) Plan Administrators

Ranking on page T10

BI 08-30-04 B 3 8/25/04 3:49 PM Page 1

Business Insurance

Special Take-Out Section

# Benefits Management

August 30, 2004

Entire contents copyright © 2004 by Crain Communications Inc. All rights reserved.



## Inside

**Retirement education**
Companies are trying various methods to encourage their employees to plan for retirement.
page T4

**Largest 401(k) plan administrators**
*Business Insurance* ranks the 10 largest administrators of 401(k) plans.
page T10

**Pension liabilities threatening PBGC**
Benefit experts say now is the time to reform pension plan funding rules, because the PBGC's long-term future is threatened.
page T12

**Plan changes may have ill effects**
Companies seeking a competitive advantage by freezing or eliminating defined benefit pension plans may find this has unintended consequences.
page T14

*BI*'s Directory of 401(k) Plan Administrators is available in the directories area of the Web site, *www.businessinsurance.com.*

The searchable directory allows registered subscribers to find information in the listings by using various search criteria, including company name and revenue, among other data.

PDF copies of this and other *Business Insurance* online directories can be purchased by e-mailing the Crain Information Center at *biorders@crain.com.*

# Retiree Benefits

# Companies take an informal look at phased retirement

## Observers believe regulatory changes inevitable

By JUDY GREENWALD

Phased retirement's time has not yet arrived, but its day will come, say many observers.

Observers say that phased retirement programs, which permit older workers to reduce their work hours without changing employers and ease their transition to full retirement, offer significant advantages to employers, including the ability to retain skilled help.

But few formal programs have been introduced so far. One major reason is that baby boomers are only now beginning to approach retirement age, and the impact of their absence from the workforce has not yet been felt.

Another is that while there are many informal phased retirement programs, formal programs present a host of legal and regulatory hurdles that discourage many employers.

But many observers say the inevitable pressure of demographic trends as baby boomers age will lead to the regulatory changes needed to facilitate employers' introduction of these programs.

The demographic trends are out there, "but it hasn't reached a crescendo yet," said Rich Koski, a principal with Mellon's Human Resources & Investor Solutions in New York.

In the meantime, many employers have introduced informal programs, which have the advantage of permitting them to selectively offer employment only to those retirees they want to retain.

Phased retirement programs can involve moving full-time workers to part-time schedules, rehiring retirees as part-timers or retaining them as consultants.

Such arrangements permit employers to keep highly skilled workers, if only for a transitional period. These retirees have knowledge, and "we would like to retain some of that knowledge and help pass it on to some of the younger staff," said Bob Berg, vp of human resources at the Muscatine, Iowa-based Stanley Group, which provides engineering, environmental and consulting services.

The company has had an informal phased retirement program for many years. About 10 to 20 retirees take advantage of the informal pro-

See PHASED/next page

# Employers watching changes to Medicare HMO plans

By JOANNE WOJCIK

Employers whose retirees are enrolled in Medicare health maintenance organizations are reaping considerable savings as a result of government funding boosts earlier this year.

But because so many plans withdrew from the Medicare market over the past few years, citing inadequate federal funding, some employers are hesitant to encourage other retirees to enroll in the plans now that they are flush again, experts say.

Still, if the rate of increase in prescription drug and hospital costs continues at its double-digit clip, employers that provide retiree health benefits are expected to give Medicare HMOs a second look.

Under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the Medicare+Choice HMO program was renamed Medicare Advantage, and the plans received sizable increases in federal contributions that had to be passed through to beneficiaries through enhanced benefits, network expansion or reduced premiums.

In addition, plans that also provide prescription drug coverage that is actuarially equivalent to that of the new Medicare Part D drug benefit will receive additional federal funding when that program begins in 2006.

The act also eliminated a 2% cap on annual federal payment rate increases to Medicare HMOs, allowing the plans to receive yearly increases more closely tied to the medical cost trend.

And, beginning in 2006, the act also provides for the creation of regional preferred provider organizations, which many experts believe will be more attractive to retirees because they more closely mirror the type of health care coverage many had while employed.

"This is the best thing that has come out for employers in such a long time," said Jonathan Nemeth, a senior vp at Aon Consulting in Somerset, N.J. "We saw that in early

See HMOs/page T6

BI 08-30-04 B 4 8/25/04 3:50 PM Page 1



# Employers encourage retirement planning

## Education crucial to help ensure that employees have adequate savings

By GLORIA GONZALEZ

Employees of Caesars Entertainment Inc. can go online at any time of day or night to check their current retirement balances, calculate projected retirement savings or model various investment scenarios, thanks to Web-based retirement planning tools.

Another employer, St. Thomas Health Services, has held about 750 one-on-one meetings since April with employees to discuss financial planning and retirement matters.

Although employers' approaches vary, their goal is the same—to encourage employees to start thinking about saving for retirement before it is too late.

For employers, offering a broad range of retirement education avenues is important to reach as large a segment of the employee population as possible, said Ellen Rinaldi, principal with The Vanguard Group in Valley Forge, Pa.

"Each kind of media appeals to different kinds of participants," she said. "Some people learn through seminars. Some learn by reading. Some want to do it online."

### Providing help

Efforts to educate employees about retirement planning are crucial, consultants say, because many workers are not doing enough to ensure that they have adequate savings.

In general, people are no better prepared for retirement than they were 10 to 15 years ago, said Richard Koski, a principal with Mellon's Human Resources & Investor Solutions in Secaucus, N.J. Some people naively believe they have saved enough for retirement, but they do not take into account increased or unexpected expenses, such as retiree medical coverage, which many companies are eliminating for future retirees. Also, too many employees do not start planning for retirement early enough, he said.

A study by the Employee Benefit Research Institute in Washington showed that 40% of the individuals surveyed are not currently saving for retirement at all. "Tools can help, but it gets back to using them," Mr. Koski said. "You would think there's more activity in this area, but it's just not there yet."

**'A lot of employees are intimidated. (Retirement investing is) a scary topic, so they're afraid of making a mistake.'**

*Steve Vernon*
*Watson Wyatt Worldwide*

A key reason for the lack of retirement planning is that employees often become paralyzed with fear of the investment process. "A lot of employees are intimidated," said Steve Vernon, vp of Watson Wyatt Worldwide in Los Angeles. "It's a scary topic, so they're afraid of making a mistake."

As employers work to help workers overcome that fear, many are turning to a variety of tools, some of them Web-based, to help take the mystery out of the process.

For example, many employers are using annual retirement statements—either paper- or Internet-based—to show employees their current investment levels and where they are headed. Another popular tool, Web-based retirement calculators, let employees determine their projected retirement benefits using such factors as their expected retirement date, contribution levels and estimated salary increases.

Caesars Entertainment's use of Web-based retirement planning tools has helped the company boost participation in its 401(k) plans.

Marge Strysik, executive director-corporate benefits for Caesars Entertainment in Las Vegas, said the convenience of the Web-based tools, coupled with an ongoing effort to educate employees on the importance of retirement planning, has encouraged employees to become more actively involved.

As a result, between 70% and 75% of the eligible employee population now participates in the company's 401(k) plans. Caesars Entertainment has about 52,000 employees. As little as two years ago, only about 55% of eligible employees at Caesars participated in its 401(k) program.

"I think we've improved over

See PLANNING/page 6

# Phased: Companies investigate retirement alternative

Continued from previous page

gram at the 700-person firm at any given time, said Mr. Berg.

Charlotte Lazar-Morrison, director of human resources at The Aerospace Corp., based in El Segundo, Calif., a private, nonprofit company that works on the U.S. Air Force's space program, said that, thanks to its phased retirement program, the company can draw on a pool of retirees as needed.

"We don't have to hire and lay off, and we have people that know the company and are experienced," she said. The program has 200 retirees working for it at any given time, including some who are in their 80s, said Ms. Lazar-Morrison. The workers officially retire before participating in the program.

Studies indicate many employees would welcome phased retirement programs. According to a Watson Wyatt Worldwide survey, one out of three older workers would continue working longer than otherwise planned if his or her employer were to offer a phased retirement program.

In addition, according to another survey of major employers by Towers Perrin released earlier this year, 78% of employee respondents said they expect to continue working in some capacity well into their retirement years.

Many workers "just don't want to go cold turkey," working on a Friday then staying home on Monday, said Stanley Group's Mr. Berg, whose company recently sent one retiree to Iraq for a three-month assignment. Now back, that retiree continues to work for the company one or two days a week.

Phased retirement offers flexibility "for those who feel like they want to get their feet wet before diving into the pool, if you will," said William Albright, director of quality of work life and benefits at Bedford, Mass.-based Mitre Corp., which has had a program in place for more than 20 years. Mitre operates federally funded research and development centers.

But although there are many informal, one-on-one arrangements, there are relatively few formal programs except in higher education, which is subject to fewer regulations than are private corporations, say observers.

One major factor in the lack of formal programs is that many baby boomers are just now approaching retirement age. "The demographics have not caught up with us yet," said Ari Jacobs, Norwalk, Conn.-based manager of retirement practice for Hewitt Associates Inc. "Baby boomers are just moving into their 60s now," and they are only beginning to get to the point where they are retiring, creating the need to start retaining those individuals, he said.

In addition, some workers whose 401(k) plan account balances were devastated by the bear equities market of the past few years are delaying their retirement.

"Unless we have a real turnaround in the investment markets, many people who planned to retire at 64 or 65, or prior to 65, will find they simply can't afford to do so," said Alex Sussman, New York-based director of The Segal Co.'s national retirement practice. "Workers will remain in the workforce because they have to."

Furthermore, with the poor economy of the past few years, "employers did not seem to be that concerned about retaining workers," said Mr. Sussman. "They were looking to reduce the work staff and increase productivity," which left the concept of phased retirement programs in private industry "in limbo," he said.

Regulatory and legal hurdles are a major factor as well, particularly for employers with defined benefit plans. Current Internal Revenue Service regulations do not permit defined benefit plan distributions before an employee's normal retirement age, unless there is a complete severance of employment with the plan sponsor.

Moreover, retirees with final average pay plans, where benefits are based on pay earned during the last years of employment, might find themselves with reduced retirement benefits if they work part time in a phased retirement program.

**Employers want to be able to offer phased retirement to the workers whom they know will be productive, not 'the person who's already asleep on the job.'**

*Rich Koski*
*Mellon's Human Resources & Investor Solutions*

In 2002, the IRS sought public comment on issues related to phased retirement and defined benefit pension plans, but it has not yet issued any guidance.

Participants in defined contribution plans have fewer restrictions on taking in-service withdrawals. However, there may also be questions about the applicability of the Employee Retirement Income Security Act and the Age Discrimination in Employment Act to phased retirement programs that may discourage employers, observers say.

None of these factors is an impediment for some employers, though. Ann de Raismes, executive vp of human resources at the Hartford Financial Services Group, said defined benefit plan benefits at the Hartford, Conn.-based insurer are based on the five years of highest compensation over a 10-year period, "so that gives you a pretty wide margin to work with," she said.

Furthermore, "any program or flexible work arrangement we're going to be in is obviously in full compliance in relation to ERISA or anything like that. That has not been a concern or an issue for us," said Ms. de Raismes, whose company has offered phased retirement as part of its flexible work arrangement program since 1997.

However, current regulations may discourage many other employers, say observers. The laws around qualified retirement plans "don't make it very easy, or very convenient," for employers to introduce phased retirement programs, said Jack Abraham, a Chicago-based principal in the human resources group of PricewaterhouseCoopers L.L.P.

Rudolph G. Penner, a senior fellow with the Washington-based Urban Institute who has co-written a study on the issue, said that he would like to see the tax code, ERISA and the ADEA amended to remove the existing ambiguity, with proposed plan designs that are "eminently fair and that employers could adopt without any fear of being sued later."

But aside from federal legislation introduced in 2000 that never got out of a congressional committee, there has been no real legislative push to ease the way for employers to introduce formal phased retirement programs, say observers.

Mr. Penner said, "When I talk to people in the Congress on these issues, I get almost exactly the kind of response you get from CEOs," which is, while something should be done, it does not have high priority because "it hasn't hit us in the face yet."

But there are, nevertheless, signs of employers' increased interest in phased retirement programs, say observers. "Slowly, over the past year," interest in phased retirement programs has begun to accelerate again, said Valerie Paganelli, senior retirement consultant in Watson Wyatt's Seattle office.

In the last two months in particular, some employers are recognizing it is an issue and realizing that, at least in certain pockets of their organization, they want to get their "arms around the real data associated with it instead of anecdotal stuff," said Ms. Paganelli.

Eventually, say observers, demographic pressures will lead to the regulatory and legislative changes needed to encourage formal phased retirement programs. "I absolutely do think it's the future," as employers face labor shortages, said Sara Rix, senior policy adviser for the AARP in Washington. "Congress will undoubtedly deal with some of these impediments."

But there could be drawbacks to formal programs, observers warn. Employers with informal programs can offer phased retirement only to the employees they want.

If the regulations were eased, under a formal program, "you would have to offer it to everyone, and once that happens, you've created something broader than what you really intended to begin with," said Ginny Olson, a principal with Towers Perrin in Atlanta.

Employers want to be able to offer phased retirement to the workers whom they know will be productive, not "the person who's already asleep on the job," said Mellon's Mr. Koski.

BI 08-30-04 B 6 8/25/04 3:50 PM Page 1



# Planning: Employers provide education, assistance

Continued from page T4
time," Ms. Strysik said. "People are starting to get the message."

The company offers a Web-based calculator, through Boston-based Fidelity Investments, that allows employees to determine their projected retirement savings at various contribution levels.

For 401(k) plans, most vendors offer financial-planning tools that let employees model "what if?" scenarios that determine the effects of various plan designs and financing strategies. For example, employees can model changes in the composition of their funding allocations, such as the percentage in equities vs. fixed-income funds. Caesars offers this type of modeling tool, Ms. Strysik said.

Such tools show employees "the power of being a little more aggressive and taking more risk," said Steve Metz, a principal in Philadelphia with the Human Resources unit of PricewaterhouseCoopers L.L.P.

The most sophisticated online tools also offer investment advice. For example, Palo Alto, Calif.-based Financial Engines Inc. offers a service called the Personal Online Advisor, which includes a personalized retirement forecast, specific fund recommendations based on an investor's risk appetite and ongoing monitoring of investments and progress reports.

Vendor studies show employees that use the tools increase their retirement savings and have more diversified portfolios. For example, a Financial Engines survey of plan participants found that 20% of users increased their contribution rates by an average of 40%.

In addition, the tools help encourage employees to begin planning for retirement at a younger age, Mr. Metz said. "People now are doing the planning in their 40s, 30s, even 20s," he said. "The tools have really encouraged that. Not enough people do it early, but far more people are doing some modeling and planning at early ages."

## Other avenues

Although many employers are offering a wide range of tools to make retirement planning easier, some employees aren't taking advantage of them, in part because they aren't comfortable with the technology.

Mr. Vernon of Watson Wyatt said he has seen use of these retirement tools mostly in the 20% to 30% range. "Depending on your perspective, that's either encouraging or disappointing," he said.

Experts say that employee willingness to use retirement-planning tools depends on several factors, including the age of the employee population, their comfort level with the Internet and their level of investment knowledge.

In fact, the level of sophistication needed to use some Internet tools may deter employees who are less technologically savvy, said PwC's Mr. Metz. And, he said, "employers who ignore that do so at great peril."

Face-to-face meetings with a financial planning expert, such as those St. Thomas Health Services offers to members of its workforce of 8,500, provide a more personal alternative.

Of the roughly 750 employees that have participated in meetings, about 60% have improved their retirement planning by either beginning or increasing pension contributions or choosing fund options appropriate to their retirement time frames, said Glenn Carnathan, senior vp and chief human resources officer of Nashville, Tenn.-based St. Thomas.

Since January, the company has boosted participation in its retirement programs by 10%, to about half the employee population, he said.

"I attribute all the increase in participation to just the activity of increasing awareness and decreasing the intimidation around matters of goal-setting and investing," Mr. Carnathan said.

## Making it automatic

Another strategy for promoting retirement savings among employees is automatic enrollment.

Under that approach, an employee is automatically enrolled in a company's defined contribution plan—with a fixed amount contributed from each paycheck—unless he or she elects to opt out of the plan.

In conjunction with that strategy, some employers use default fund options called retirement-date funds or lifestyle funds, which are diversified fund options that are conservatively or aggressively invested, depending on how close a person is to retirement age. For example, an individual retiring in 2010 would have his funds invested in a conservative portfolio with a heavy fixed-income component. In contrast, someone set to retire after 2020 would be more heavily invested in equities, because he or she has time to weather the ups and downs of the financial markets. The plan administrator adjusts the asset allocation as the employee gets closer to retirement age.

"Defaulting them into an appropriate retirement-date fund really does make sense and is probably a good option for a lot of people," said Angela Parrish, senior vp and practice leader for Aon Investment Consulting in Tampa, Fla.

"It helps solve the problem of how your assets should be allocated. It becomes more conservative, and you don't have any big losses right before you retire," Ms. Parrish said.

# HMOs: Employers watching Medicare HMO changes

Continued from page T3
2004, and with '05 we're again expecting good news on the Medicare Advantage front, and '06 will be even more exciting."

"The Medicare Modernization Act and the creation of Medicare Advantage increases the funding levels to these plans back to and actually beyond the funding levels of the 1990s," said Joe Altman, a principal at Towers Perrin in Stamford, Conn. As a result, premiums for many Medicare HMOs have dropped "in excess of $100 per month," he estimated.

According to a survey of 20 Medicare Advantage plans conducted at the beginning of the year by Towers Perrin, 71% said they planned to use all or some of the extra funding to lower 2004 premiums. In addition, 30% planned to enhance benefits, 41% said they would strengthen provider networks, and 29% planned to establish reserve funds to stabilize 2005 premiums and benefits.

Some specific examples:

- SecureHorizons, the Medicare Advantage plan of Cypress, Calif.-based PacifiCare Health Systems Inc., announced in February that it would use its 9.7% increase in federal funding to enhance prescription drug coverage and to lower premiums and copayments.
- New York-based Empire Blue Cross & Blue Shield eliminated the $95 monthly premium contributions for retirees in Westchester and Rockland counties.
- Blue Shield of California introduced new outpatient prescription drug benefits for brand-name drugs and added $1,000 in brand-name drug coverage for members receiving generic-only coverage.
- Aetna Inc., which had withdrawn from selected counties in 17 states in 2001 and 2002, filed for Medicare Advantage expansion in 58 counties in Maryland, New Jersey and New York.

Despite this good news, most employers are not yet rushing to jump on the Medicare Advantage bandwagon, industry experts report.

Towers Perrin's RetireeCHOICES Coalition, which purchases coverage for retirees on behalf of its employer-members, saw its membership drop from 70 in the mid-1990s down to "about a dozen" today, according to Mr. Altman.

"The Balanced Budget Act of 1997 severely limited the annual funding increases to Medicare plans," he said. "After that time, by 1999-2000, plans started exiting the business, and those that remained were charging employers much higher premiums to make up for lower government funding."

As a result, Medicare HMOs "became a less-attractive option in many markets and a nonoption in some markets where there were none available," Mr. Altman said.

Indeed, the number of HMOs operating in the Medicare+Choice program has dropped from 346 in 1998 to 145 today, according to statistics collected by the Henry J. Kaiser Family Foundation in Menlo Park, Calif. Also over that time, enrollment in Medicare HMOs dropped from 6.3 million, or 16% of the eligible population, down to 4.6 million, or 11%.

## Impact of changes

Enrollment in Medicare Advantage plans could grow, some predict, when plans begin offering PPOs beginning in 2006.

While the vast majority of Medicare Advantage plans are HMOs, the Centers for Medicare and Medicaid Services is conducting a few PPO demonstration projects around the United States, with a total enrollment of 89,000 as of February.

"These are not individuals who were used to managed care during their days as active employees, so being limited to the HMO's panel of doctors for some may be a bit uneasy. And I think the idea of a PPO will make it more attractive for some retirees," said Mr. Altman of Towers Perrin.

> **'At the end of the day, the savings opportunity is going to be significantly compelling that employers are going to have to give (Medicare Advantage plans) serious consideration.'**
>
> *Joe Altman*
> *Towers Perrin*

The addition of a PPO option also may make it feasible for some employers to transfer all of their retirees into Medicare Advantage plans, said Joe Martingale, national health care strategy leader for Watson Wyatt Worldwide in New York.

"The limited geographic reach of Medicare Advantage plans today makes it difficult for employers to offer them as a full replacement. PPOs should be broader geographically," Mr. Martingale said.

New funding that Medicare Advantage plans will receive starting in 2006 if they provide Part D-equivalent drug coverage also could make them more robust and, therefore, more attractive to retirees, said Stephen Parahus, a vp in New York for The Segal Co.

"To the extent that these Medicare Advantage plans are also Part D plans—prescription drug plans—for the purposes of the MMA and are eligible for lots and lots of federal funding to support the drug piece of their plan—drugs being the biggest part of the plan—costs could drop very significantly again," Mr. Parahus said.

Based on the law's 2006 projected Part D plan value of $1,640 per enrollee, plans that provide actuarially equivalent prescription drug coverage will be eligible to receive up to $1,220 per enrollee per year from the federal government, he calculated.

## Employers wary

Experts say that even with more and better products available under the Medicare Advantage program, employers are skeptical, having been burned before.

"My clients are reluctant to race back into the Medicare HMO market, having already had a lot of disruption to their retirees in the past," said Kirby Bosley, a consultant who heads the health care practice for Mercer Human Resource Consulting in Los Angeles.

"Most large employers intend to wait and see that there's some stability before they step back into the program. They're looking for network stability. They're looking for broad geographic coverage. They're looking for more than one year of evidence of staying power," Ms. Bosley said.

But the savings that could be achieved by transferring the liability for retiree medical costs to a third party could overcome any employer aversion to Medicare Advantage.

"If some of the big HMOs walk in there and say, 'Here's an opportunity for your retirees to get benefits at significantly less cost,'" corporate America's need for cash flow and the desire to reduce balance-sheet liabilities for postemployment medical costs could tempt employers to persuade their retirees to enroll in Medicare Advantage plans, Mr. Nemeth predicted.

"I've had a few employers say they want to go a little more slowly in this area. I think they're waiting to see how the Medicare Modernization Act issues play out, to see what the variety of options looks like," said Towers Perrin's Mr. Altman. "But, I do believe, at the end of the day, the savings opportunity is going to be significantly compelling that employers are going to have to give it serious consideration."

"On the one hand, it's easy to be dismissive and say: 'We did this once before. The party was fun while it lasted. The end of the party was a little bit messy. We had a lot of disgruntled retirees. We don't want to go there again,'" said Mr. Parahus of Segal. "On the other hand, it's awfully alluring to have your costs drop by 80%. I really do think that they may love to hate it, but they may find it irresistible."

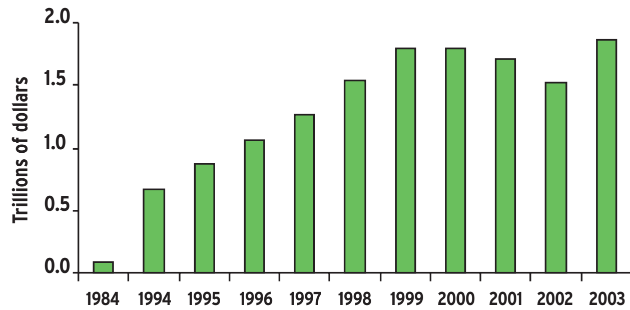
"I talked with several of our customers, and we hear a lot from them (that) many employers are facing considerable challenges in continuing to provide retiree health benefits. What the law did was added more sustainable and a larger number of tools to the toolbox for employers to consider," said Susan E. Rawlings, vp and head of retiree strategy at Aetna in Hartford.

BI 08-30-04 B 10 8/25/04 4:30 PM Page 1



## 401(k) ASSETS GROW

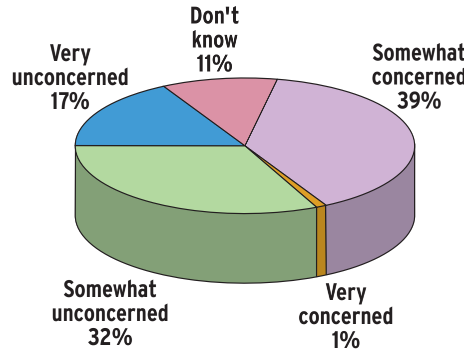
Growth of assets in 401(k) plans




2000-2003 are estimated
Source: U.S. Department of Labor

## EXPENSE CONCERNS

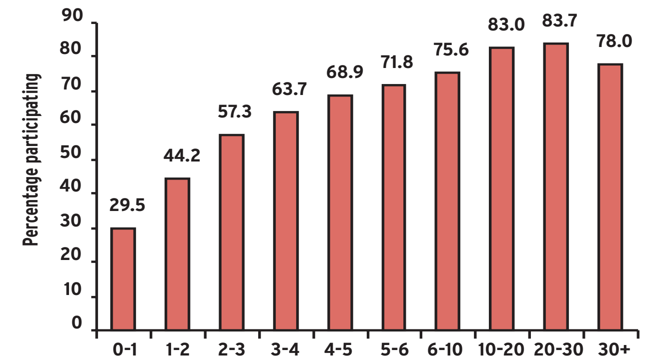
Employer perception of the level of employee concern about 401(k) plan expenses




Source: Hewitt Associates Inc.

## 401(k) PARTICIPATION

Participation by years of employment




Source: Hewitt Associates Inc.

# Largest 401(k) plan administrators

## Ranked by number of plan participants receiving services on an unbundled basis [1]

| Rank | Company/Address | Phone/Fax/Web | Unbundled participants | Unbundled clients | Average participants per plan [2] | 401(k) staff [3] | Principal officer |
|---|---|---|---|---|---|---|---|
| 1 | Hewitt Associates Inc.<br>100 Half Day Road<br>Lincolnshire, Ill. 60069 | 847-295-5000<br>Fax: 847-883-9019<br>*www.hewitt.com* | 5,700,000 [4] | 171 | 33,600 | 3,000 [4] | Dale Gifford,<br>chairman/CEO |
| 2 | BISYS Retirement Services Inc.<br>200 Dryden Road<br>Dresher, Pa. 19025 | 215-648-6000<br>Fax: 215-648-1275<br>*www.bisysretirement.com* | 1,900,000 | 21,000 [4] | 87.8 | 516 | Chris Guarino,<br>president |
| 3 | Mellon's Human Resources<br>& Investor Solutions<br>85 Challenger Road<br>Ridgefield Park, N.J. 07660 | 201-296-4000<br>Fax: 201-296-4004<br>*www.mellon.com/hris* | 1,033,517 | 52 | 6,448 | 435 [5] | Howard Fine,<br>managing director-<br>retirement line of business |
| 4 | Great-West Retirement Services<br>8515 E. Orchard Road<br>Greenwood Village, Colo. 80111 | 303-737-3000<br>Fax: 303-737-3030<br>*www.gwrs.com* | 467,113 | 3,537 | 110 | 534 | William T. McCallum,<br>president/CEO |
| 5 | Ceridian Retirement Plan Services Inc.<br>3201 34th St. S.<br>St. Petersburg, Fla. 33716 | 877-677-7401<br>Fax: 727-906-3954<br>*www.ceridianrps.com* | 411,232 | 1,620 | 150 | 251 | Webster Hill,<br>vp |
| 6 | Paychex Inc.<br>911 Panorama Trail S.<br>Rochester, N.Y. 14625 | 585-385-6666<br>Fax: 585-383-3869<br>*www.paychex.com* | 383,634 | 28,667 | 13 [6] | NA | B. Thomas Golisano,<br>chairman/president/CEO |
| 7 | The 401(k) Co.<br>98 San Jacinto Blvd., Suite 1100<br>Austin, Texas 78701 | 800-843-4015<br>Fax: 512-344-3000<br>*www.the401kcompany.com* | 300,000 | 134 | 3,225 | 280 | Jerry Bramlett,<br>president/CEO |
| 8 | AccuRecord Inc.<br>100 G Executive Drive<br>Edgewood, N.Y. 11717 | 631-243-6400<br>Fax: 631-243-6427<br>*www.accurecord.com* | 239,289 | 3,157 | 73 | 96 | George Chave,<br>president |
| 9 | Milliman Inc.<br>1301 Fifth Ave., Suite 3800<br>Seattle, Wash. 98101 | 206-624-7940<br>Fax: 206-340-1380<br>*www.milliman.com* | 195,620 | 510 | 1,000 | 400 | Patrick J. Grannan,<br>president/CEO |
| 10 | ADP Retirement Services<br>4 Becker Farm Road<br>Roseland, N.J. 07068 | 800-432-4015<br>Fax: 973-974-3035<br>*www.adp401k.com* | 167,799 | 11,410 | 39 | 1,050 | Mark Phillips,<br>senior vp/general manager |

1 Companies must offer 401(k) plan administration services, such as recordkeeping and handling of account activity, on an unbundled basis 2 Includes both unbundled and bundled 401(k) plans 3 Reflects staff dedicated to 401(k) plan recordkeeping, administration or consulting 4 Estimated 5 401(k) employees include call representatives trained for defined contribution plans 6 *BI* estimate NA=not available
Source: *BI* survey

Visit *www.businessinsurance.com* for more information and access to the full searchable directory of 401(k) plan administrators.

BI 08-30-04 B 12,13 8/25/04 3:51 PM Page 1



# Liabilities threatening long-term future of PBGC

## Benefit experts say time is now to reform pension plan funding rules

By JERRY GEISEL

As the 30th anniversary of the Employee Retirement Income Security Act nears, the federal agency established under that law to ensure the provision of promised benefits to U.S. workers and retirees when sponsors can no longer afford to fund their pension plans is itself running in the red and is in need of rescue.

Thirty years ago this week, President Gerald Ford signed into law legislation to reform the nation's private pension plan system. A key element in that legislation was the creation of the Pension Benefit Guaranty Corp. to administer an insurance program that would ensure that workers' and retirees' pension benefits would be protected when companies folded their pension plans.

The impetus for such reforms was the numerous pension plan scandals in the 1960s and early 1970s. There were no statutory requirements for employers to fund their pension plans, and so when a company failed, its pension plan often had only a fraction of the assets needed to pay the benefits that had been promised.

Those failures, especially the 1963 bankruptcy and subsequent dissolution of automaker Studebaker Corp. of South Bend, Ind., captured national attention, resulting in public demand for pension reform and the eventual enactment of ERISA.

By any standard, the PBGC has been one of ERISA's shining successes. Through the end of its latest fiscal year, the PBGC had taken over or was about to take over more than 3,200 pension plans whose sponsors either had gone out of business or were so financially distressed that they no longer could afford to fund their pension programs.

The nearly 1 million participants in those plans now are receiving or will receive when they reach retirement age either all or much of their promised benefits from the PBGC. Last year alone, in fact, the PBGC paid out nearly $2.5 billion to retirees or their survivors.

Through its insurance program, the PBGC helped to restore public confidence in the private pension plan system that had been badly shaken in the 1960s and early 1970s. And through its benefit guarantees, it has ensured a steady stream of income for hundreds of thousands of retirees.

"There have been great societal benefits," said Kevin Wagner, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide.

But now the PBGC itself may be in need of a rescue. Its onetime surplus of nearly $10 billion has vanished amid pension plan takeovers the size of which no one likely contemplated when the agency was created.

Today, the PBGC's deficit exceeds $9 billion, with the collapse of the nation's steel industry a huge factor in its financial woes. The PBGC's 2002 takeovers of pension plans sponsored by two failed steelmakers—LTV Corp. and Bethlehem Steel Corp.—alone cost the PBGC nearly $5.5 billion. Roughly half of the payments the PBGC made last year went to those in failed steel industry plans.

And the worst may be yet to come. Pension plan underfunding among commercial airlines, most of which are in financial difficulty, amounts to $31 billion. The airline with the biggest liabilities—UAL Corp. unit United Airlines, whose pension plans have $8.3 billion in unfunded liabilities, including $6.4 billion in PBGC-guaranteed benefits—stopped contributing to the plans in July and has told a bankruptcy court that termination of the plans is "likely."

If that were to happen, not only would the PBGC be hit with its biggest loss ever, but it could set the stage for other financially distressed airlines, which then would be operating at a big cost disadvantage compared to United, to do the same.

"You certainly could have a domino effect," said Frank Cummings, of counsel with LeBoeuf, Lamb, Greene & MacRae L.L.P. in Washington, who represents United's retired pilots.

The size of those liabilities eventually would dwarf the PBGC's ability to pay them, setting the stage, some worry, for a federal bailout akin to the one two decades ago that was necessary for the savings and loan industry.

But the S&L analogy, in one key way, is not apt, pension experts say. When public confidence in savings and loans institutions vanished, there were runs on the financial institutions because depositors could demand their money. With the institutions unable to meet that demand, the federal government had to step in.

In the case of the PBGC, though,

Continued on next page

WORKING WITH HEWITT TO HELP YOUR EMPLOYEES MAKE MORE INFORMED HEALTH CARE CHOICES WILL RESULT IN WHICH OF THE FOLLOWING OUTCOMES?

A. YOUR COMPANY WILL SAVE MILLIONS.
B. YOUR COMPANY WILL SAVE MILLIONS.
C. YOUR COMPANY WILL SAVE MILLIONS.
D. YOUR COMPANY WILL SAVE MILLIONS.

HR & Benefits Outsourcing | Payroll | Retirement & Financial Management | Health Care | Talent & Organizational Change

Hewitt

©2004 Hewitt Associates LLC

www.hewitt.com/results

BI 08-30-04 B 12,13 8/25/04 3:51 PM Page 2



Continued from previous page

its promises—monthly annuity checks to hundreds of thousands of plan participants—are paid out over many years. The tens of billions of dollars the PBGC holds in assets therefore mean that the agency is in no immediate danger of not being able to honor its benefit obligations.

"There is no run on the bank," said James Klein, the president of the American Benefits Council in Washington.

"The PBGC is not in its grave by a long shot," said Mr. Cummings.

But while the PBGC is in no imminent danger of running out of money, it almost certainly will in the long term. The agency's benefit obligations will swamp its revenue sources—insurance premiums paid by employers with defined benefit plans and investment income earned on the assets it holds.

"We can't hope the problem is going to go away by itself," said Larry Sher, director of research at Mellon's Human Resources & Investor Solutions in New York.

"The last thing we want to do is allow the situation to fester. The hole will only get bigger and bigger," said PBGC Executive Director Bradley Belt.

Drafting reform legislation, many say, will be difficult, though not impossible. "There has to a very careful balance of competing interests and considerations," Mr. Belt said.

For example, some say Congress will have to raise the premiums employers pay the PBGC to boost the agency's income.

But if premiums are raised too much for employers with well-funded plans, the attractiveness of offering defined benefit plans will decrease, said Michael Pikelny, benefit consultant and corporate actuary with apparel manufacturer Hartmarx Corp. in Chicago.

And if premiums are significantly increased for employers with underfunded plans, that could lead to more plan terminations.

"Do you want to impose a significant cost on employers when they can least afford it? You could drive some companies to prematurely terminate their plans," said Scott Macey, a senior vp with Aon Consulting in Somerset, N.J.

There is greater agreement, though, on other possible pension rule changes. Many agree that employers in financial difficulty with underfunded plans should have a reduced ability to offer lump sum benefits or not be able to offer lump sums at all. Lump sum payments can rapidly drain assets.

"A plan can go broke pretty quickly," Mr. Sher said.

Others say rules should be changed so that financially distressed companies could not boost benefits or, if they were to do so, those benefit improvements would not be guaranteed by the PBGC.

"Perhaps there should be some kind of limitations," Mr. Macey said.

Additionally, many say, pension funding rules need to be amended so that companies could put more money into their plans—even if fully funded—so that plans would have surpluses that could be drawn upon when times get tough.

"You want to build a cushion for the years of famine," said Ethan Kra, chief actuary for Mercer Human Resource Consulting in New York.

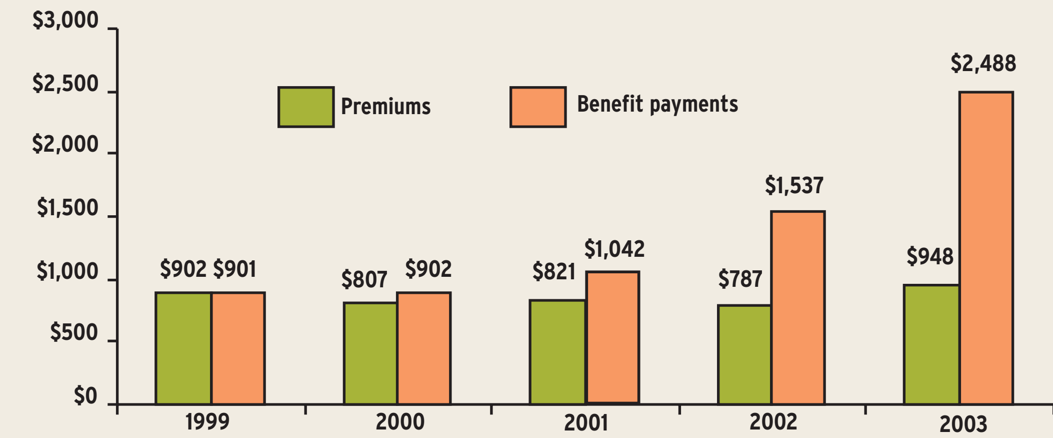
"You want to encourage employers to fund the plans when times are good," said Mike Archer, a principal with Towers Perrin in Parsippany, N.J.

Finally, experts say, to ensure the PBGC's premium base does not erode and employers stay in the defined benefit plan system, Congress needs to resolve the legal uncertainties surrounding so-called hybrid pension plans, such as cash balance plans.

"Companies are not going to wait forever. The uncertainty has to be worked out soon," Mr. Macey said.

## PAYMENTS OUTSTRIPPING PREMIUMS

Pension benefits, in millions of dollars, paid by the PBGC lately have exceeded its premium income.




Source: Pension Benefit Guaranty Corp.

It's Not About a Job . . . It's About Opportunity, Performance and Professionalism.

The benefits and compensation industry demands powerful performers. CEBS can give you that competitive edge!

The CEBS® program covers three specialty areas: group benefits, retirement plans and compensation management. With a total compensation curriculum developed by the Wharton School, you have the assurance of earning credentials that are in demand.

*Don't let this opportunity pass you by—earn the only total compensation designation in the industry.*

www.cebs.org
(800) 449-CEBS (2327)

CEBS, CMS, GBA and RPA—total compensation credentials for the highest performers!

*Accomplish More.*

EDUCATION • CREDENTIALS
CEBS
CMS • GBA • RPA
*for Benefit and Compensation Professionals*

BI 08-30-04 B 14 8/25/04 3:52 PM Page 1



# More employers freezing, phasing out DB pensions

## Companies closing defined benefit plans may experience unwanted side effects

By SALLY ROBERTS

Faced with increasing pension funding liabilities and an unfriendly regulatory environment, more employers are phasing out their traditional defined benefit plans and opting to beef up their defined contribution offerings.

Consultants warn, though, that even though freezing pension plans may help alleviate the current volatility associated with funding such plans, employers that do so may be shooting themselves in the proverbial foot when it comes to recruiting and retaining workers in the future.

Employers also could end up with a disproportionate number of older workers on their payrolls if they phase out their pension plans, because employees may not feel secure enough financially to retire at normal retirement age.

Still, consultants note that for many companies, reducing the volatility and risk associated in funding a pension plan today is taking precedence over the longer-term potential ramifications.

"It's been our experience that those employers that are freezing (pension plans) today feel that they would be at a competitive disadvantage if they did not do so," said Art Carlos, a senior vp with Aon Consulting in Chicago.

An October 2003 Aon Consulting survey of more than 1,000 private-sector defined benefit plans found that more than 20% of respondents had either frozen their plans or were contemplating doing so.

The number of Fortune 1000 companies with defined benefit plans fell to 622 in 2003, from 660 in 2000, according to a recent analysis from Watson Wyatt Worldwide.

Rather than terminate their pension plans entirely, employers most often "freeze" their plans, which can mean permitting no additional benefit accruals or closing a plan to new employees.

**'Over the last 10 years, virtually any time the federal government touched pension plans, they've made them more onerous.'**

*Stephen M. Metz*
*PricewaterhouseCoopers*
*Human Resource Services*

Employers then typically introduce a defined contribution plan—such as an enhanced 401(k) plan or a profit-sharing plan—for which employer contributions are more stable and easier to predict and budget than in a defined benefit plan, consultants note.

Among employers that have recently frozen benefits under their traditional pension plans are Dayton, Ohio-based NCR Corp.; Hoffman Estates, Ill.-based Sears Roebuck & Co.; and Chicago-based Aon Corp.

NCR and Sears opted to freeze their pension plans to new and younger employees and offer enhanced 401(k) plans, while Aon froze its pension plan to all new employees and began offering a new defined contribution plan tied to an employee's length of service.

The companies cited the need to minimize volatility and to remain competitive in their respective industries as reasons for the changes.

"The recent tendency toward companies backing away from defined benefit plans, I would guess 50% of what's going on now is reaction to the recent volatility and the other 50% is just business pressure—that you're competing with a variety of enterprises that have lower fixed costs," said Stephen M. Metz, a principal in the Philadelphia office of PricewaterhouseCoopers Human Resource Services.

In addition to plummeting interest rates and wide swings in the equities markets, which has resulted in funding volatility, plan sponsors also face an unfriendly regulatory environment, Mr. Metz said.

"Over the last 10 years, virtually any time the federal government touched pension plans, they've made them more onerous. And every time the accounting rules makers looked at pension plans, they seemed to do things that made them more onerous," he said. If changes that brought plan sponsors relief and more stability were to be made, "I think you'd see this level off quicker," he said of employers phasing out pension plans. "Short of something that gives employers more encouragement, I think it will continue for a while."

But as employers continue to phase out their defined benefit plans in an effort to remain financially competitive, they may be putting themselves at a competitive disadvantage for attracting employees in the future, consultants warn.

Having a pension plan was a "competitive advantage in the '90s with the bull market…that didn't seem all that important or all that relevant," said Donald E. Fuerst, a principal in the Denver officer of Mercer Human Resource Consulting. "That may be changing now as people recognize that their 401(k)s are not going to be enough. I think that employers that have a balance of these two plans really do have a competitive advantage in the benefits plan that they offer," he said.

"As we've looked at demographic trends and the aging population… it's our estimation that those organizations that continue to sponsor defined benefit plans will be better positioned in terms of recruiting and retaining skilled employees longer term," Aon's Mr. Carlos said.

Employers that offer no pension benefits also may face employing an older workforce in the future, consultants add.

"Employees just can't afford to retire at the same age that they were able to before," said Kevin Wagner, retirement practice director in the Southfield, Mich., office of Watson Wyatt Worldwide. "So companies are not experiencing quite the turnover…they might have expected previously."

"One of the reasons why employers have retirement plans, which they don't talk a lot about, is that there may come a point where you need people to retire," PwC's Mr. Metz added. There may come a time, he said, when an employer has an oversized workforce and part of that workforce may include a highly protected class of employees who cannot afford to retire, yet are no longer high performers.

"That's a tough group to do anything about," Mr. Metz said. "Having your employees able to retire when they ought to can be important to a business."

"I think we have as much of a concern as any other company out there that people aren't going to feel secure enough with their Social Security and other means that they've provided on their own to be able to retire at age 65," said Mark Kitchen, benefits manager of Marsh Supermarkets L.L.C. The Indianapolis-based supermarket chain froze its pension plan to all employees in 1996 and began offering an enhanced 401(k) plan.

While employee retirement may be a concern, Mr. Kitchen said he is not concerned about the company's future ability to compete for employees.

"I don't think that, within our industry, we have recognized a competitive disadvantage by not having a pension plan. We do offer a 401(k) plan, which some smaller companies may not," he said.

A mountain of knowledge

**Is your bottom line being negatively impacted by the special needs of your retiree population?**

Olympic has the solution. We are able to replicate Medicare's payment system, allowing us to accurately price and adjudicate any Medicare claim for any provider, for any service, for any geographical location. You won't be leaving dollars on the table with Olympic as your TPA.

Olympic Health Management has been successfully specializing in products and services related to Medicare since 1989. We understand your needs and those of your retirees. Talk to us today and find out all the ways we can positively impact your bottom line and retiree service requirements.

OLYMPIC

Olympic Health Management Systems, Inc.
2219 Rimland Drive, Bellingham, WA 98226

Clint Bell, Vice President, Business Development
888-858-8544 cbell@ohmsystems.com www.ohmsystems.com

INT.75